

CHAPTER 26

SOLID WASTE

Authority

N.J.S.A. 13:1E-1 et seq., 13:1B-3 and 13:1D-9.

Source and Effective Date

R.1996 d.578, effective November 18, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Executive Order No. 66(1978) Expiration Date

Chapter 26, Solid Waste, expires on November 18, 2001.

Chapter Historical Note

Chapter 26, Bureau of Solid Waste Management, was filed and became effective prior to September 1, 1969, pursuant to authority delegated at N.J.S.A. 26:2C-1, et seq. and N.J.S.A. 26:2D-1 et seq. Amendments to Chapter 26 became effective July 1, 1974 as R.1974 d.172. See: 5 N.J.R. 369(b), 6 N.J.R. 305(c).

Subchapter 2 was partially repealed and partially recodified to Subchapter 2A and a new Subchapter 2, Disposal, was adopted by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Subchapter 2A, Additional Specific Disposal Regulations for Sanitary Landfills, was partially recodified from Subchapter 2 and the remainder was adopted as new rules by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Subchapter 2B, Additional, Specific Disposal Regulations for Thermal Destruction Facilities, Transfer Stations, Materials Recovery Facilities, Co-Composting and Composting Facilities, was adopted as new rules by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b). Subchapter 2B, was renamed Additional, Specific Disposal Regulations for Thermal Destruction Facilities, Transfer Stations, Materials Recovery Facilities, Co-Composting and Solid Waste Composting Facilities by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Subchapter 3, was adopted as R.1984 d.279, effective July 2, 1984. See 16 N.J.R. 986(a), 16 N.J.R. 1766(a). Subchapter 3 expired on June 9, 1985 and a new Subchapter 3, Transportation, was adopted as R.1985 d.558, effective November 4, 1985. See: 17 N.J.R. 1041(a), 17 N.J.R. 2609(a).

Subchapter 3A, Special Medical Waste, was adopted as an emergency new rule by R.1988 d.429, effective August 10, 1988 (to expire October 9, 1988). See: 20 N.J.R. 2321(a). The concurrent proposal was adopted as R.1988 d.523, effective October 7, 1988. See: 20 N.J.R. 2321(a), 20 N.J.R. 2760(a). Subchapter 3A, Special Medical Waste, was repealed and a new Subchapter 3A, Regulated Medical Waste, was adopted as an emergency repeal and new rule by R.1989 d.396, effective June 26, 1989. See: 21 N.J.R. 2109(a). The concurrent proposal was adopted as R.1989 d.506, effective August 25, 1989. See: 21 N.J.R. 2109(a), 21 N.J.R. 2967(a).

Subchapter 4, Fees for Solid Waste, Excluding Hazardous Waste, was amended by R.1975 d.110, effective April 29, 1975. See: 7 N.J.R. 101(a), 7 N.J.R. 259(a). Subchapter 4 was further amended by R.1976 d.327, effective November 1, 1976. See: 8 N.J.R. 374(d), 8 N.J.R. 510(d); and R.1978 d.205, effective July 1, 1978. See: 10 N.J.R. 327(c). Subchapter 4, Fees for Solid Waste, Excluding Hazardous Waste, was renamed Fees for Solid Waste by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Subchapter 4A, Hazardous Waste Fees, was adopted as R.1989 d.54, effective January 17, 1989. See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Subchapter 4A was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 5, Rules of Practice and Procedure, was adopted, pursuant to authority of N.J.S.A. 13:1E-1 et seq., by R.1973 d.300, effective October 23, 1973. See: 5 N.J.R. 370(c). Subchapter 5 was further amended by R.1982 d.433, effective December 6, 1982. See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a); and R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a). Pursuant to Executive Order No. 66(1978), Subchapter 5, Rules of Practice and Procedure, expired on October 7, 1985 and the Department does not intend to readopt its provisions. Subchapter 5, Rules of Practice and Procedure, was repealed by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b). Subchapter 5, Civil Administrative Penalties and Requests for Adjudicatory Hearings, was adopted as R.1990 d.50, effective January 16, 1990. See: 21 N.J.R. 2734(a), 22 N.J.R. 187(a).

Subchapter 6, was adopted as R.1979 d.502, effective December 31, 1979. See: 11 N.J.R. 616(b), 12 N.J.R. 71(b). Subchapter 6 was repealed and a new Subchapter 6, Interdistrict and Intradistrict Solid Waste Flow, was adopted by R.1982 d.434, effective December 6, 1982, in accordance with a New Jersey Supreme Court decision modifying Department of Environmental Protection authority to direct the inter-district flow of waste (A.A. Mastrangelo, Inc., et al. v. Commr. Env. Prot., August 11, 1982). See: 14 N.J.R. 1027(b), 14 N.J.R. 1368(a).

Subchapter 7, Labeling, Records and Transportation Requirements, was adopted as R.1978 d.72, effective February 27, 1978. See: 9 N.J.R. 459(d), 10 N.J.R. 146(a). Subchapter 7 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 8, Hazardous Waste Criteria, Identification and Listing, was adopted as R.1981 d.281, effective August 6, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 484(b). Public Notice: Petition for Rulemaking. See: 22 N.J.R. 994(a). Public Notice: Action on Petition for Rulemaking. See: 22 N.J.R. 994(d). Subchapter 8, Hazardous Waste Criteria, Identification and Listing, was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 9, Requirements for Hazardous Waste Facilities, was adopted as R.1981 d.370, effective October 8, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 706(b). Subchapter 9 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 10, Additional Operational and Design Standards for Hazardous Waste Facilities, was adopted as R.1982 d.324, effective October 4, 1982. See: 13 N.J.R. 567(a), 14 N.J.R. 1089(d). Subchapter 10 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 11, Additional Requirements for Hazardous Waste Facilities Operating Under Existing Facility Status, was adopted as R.1981 d.370, effective October 8, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 706(b). Subchapter 11 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 12, Hazardous Waste Facility Permit Requirements, was adopted as R.1981 d.370, effective October 8, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 706(b). Subchapter 12 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 13, Siting Criteria for New Major Commercial Hazardous Waste Facilities, was adopted as R.1983 d.276, effective July 5, 1983. See: 15 N.J.R. 113(a), 15 N.J.R. 1096(a). Subchapter 13 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 13A, Hazardous Waste Facilities Siting Commission: Policies and Procedures, was adopted as R.1984 d.304, effective July 16, 1984. See: 16 N.J.R. 408(b), 16 N.J.R. 1989(a). Subchapter 13A was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 14, Resource Recovery Grants or Loans, was adopted as R.1981 d.184, effective June 4, 1981. See: 13 N.J.R. 9(a), 13 N.J.R.

340(d). Subchapter 14 was repealed by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Subchapter 14A, Resource Recovery and Solid Waste Disposal Facility Loans, was adopted as R.1988 d.268, effective June 20, 1988. See: 19 N.J.R. 828(a), 20 N.J.R. 1346(a).

Subchapter 15, Recycling Grants and Loans Program, was adopted as R.1982 d.32, effective February 16, 1982. See: 13 N.J.R. 865(a), 14 N.J.R. 206(b).

Subchapter 16, Solid and Hazardous Waste Licensing and Revocation—Disclosure Statements and Integrity Review was adopted as R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1425(a), 16 N.J.R. 1766(a).

Subchapter 16A, Special Rules for Submission of Disclosure Statements by Existing Licensees and Applicants Whose Applications Were Pending Before the Department Prior to July 2, 1984, was adopted as R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

Subchapter 17, Availability of Information; Confidential Business Information, was adopted as R.1988 d.57, effective February 1, 1988. See: 19 N.J.R. 1869(a), 20 N.J.R. 273(a). Subchapter 17, Availability of Information; Confidential Business Information, was repealed and a new Subchapter 17, Confidentiality Determinations, was adopted by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Chapter 26, Bureau of Solid Waste Management, was renamed Division of Waste Management and amended by R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1425(a), 16 N.J.R. 1766(a). Amendments to Chapter 26 became effective June 1, 1987 as R.1987 d.235. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Pursuant to Executive Order No. 66(1978), Chapter 26, Bureau of Solid Waste Management, was readopted as R.1990 d.578, effective October 25, 1990. See: 22 N.J.R. 2882(a), 22 N.J.R. 3514(a). The expiration date of Chapter 26, Bureau of Solid Waste Management, was extended by gubernatorial directive from October 25, 1995 to October 25, 1996. See: 27 N.J.R. 4700(a). The expiration date of Chapter 26, Division of Waste Management, was further extended by gubernatorial directive from October 25, 1996 to November 25, 1996. See 28 N.J.R. 4959(a).

Pursuant to Executive Order No. 66(1978), Chapter 26, Bureau of Solid Waste Management, was readopted as Chapter 26, Solid Waste, by R.1996 d.578, effective November 18, 1996. See: Source and Effective Date. See, also, section annotations.

Chapter 26 was extensively amended by Emergency Adoption R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997). New rule N.J.A.C. 7:26-1.9 and the amendments to N.J.A.C. 7:26-1.9, 1.11, 6.10, and 6.11 became operative on September 2, 1997. All other amendments and repeals were to become operative upon final disposition of *Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*. See: 29 N.J.R. 4170(a). The provisions of R.1997 d.404 were readopted by R.1997 d.510, effective October 31, 1997, with changes upon adoption effective December 1, 1997. Concurrent new rule N.J.A.C. 7:26-1.9 and the concurrent amendments to N.J.A.C. 7:26-1.9, 1.11, 6.10 and 6.11 became operative on October 31, 1997. All other concurrent amendments and repeals became operative on November 10, 1997, the date of final disposition (denial of certiorari by the United States Supreme Court) of *Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*. All changes upon adoption became operative on December 1, 1997. See: 29 N.J.R. 5084(a).

Research Note

The Water Quality Regulations of the Interstate Sanitation Commission appear as Appendix A to Title 7.

Law Reviews and Journal Commentaries

Counties scramble to meet U.S. Court's trash mandate. Cheryl Winokur, 150 N.J.L.J. 609 (1997).

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SUBCHAPTER 1. GENERAL PROVISIONS

7:26-1.1 Scope of rules

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department of Environmental Protection that govern the registration, operation, maintenance, and closure of sanitary landfills and other solid and hazardous waste facilities in the State of New Jersey as may be approved by the Department; registration, operation, and maintenance of solid waste transporting operations and facilities in the State of New Jersey; a fee schedule for services provided by the Department to solid and hazardous waste facilities, generators and transporters; and the assessment of civil administrative penalties. These rules shall not apply to the following:

1. The purchase, sale, collection, storage, transport or controlled processing of source separated or commingled source separated recyclable, recycled or secondary non-hazardous materials, which would otherwise be handled as solid waste pursuant to this chapter for introduction or reintroduction into the economic mainstream as raw materials for further processing or as products for use, provided that such materials are free from putrescible matter and are not mixed with solid or liquid waste as defined herein. Specifically not exempted are solid waste materials (including fuel and reusable energy), or thermal destruction facilities. These rules shall not apply only if the conditions in (a)1i or ii below are met.

i. The use or reuse of material, which would otherwise become solid waste under this chapter, directly as a product or incorporated into any form of raw material to be used in the manufacturing of a product shall meet the generally accepted product specifications and standards for similar manufactured products or raw materials. The used or reused material shall not present a greater risk to human health or the environment than the use of the product or raw material it is replacing.

ii. The use or reuse of materials that would otherwise become solid waste pursuant to this chapter as fill material, aggregate substitute, fuel substitute or landfill cover shall be approved as beneficial use pursuant N.J.A.C. 7:26-1.7.

iii. Specifically not exempt are those used or reuses of materials which, if released to the environment through transport, storage or other handling will cause pollution of the surface or ground water of this State or which may pose a substantial or material threat to the public health, safety or welfare in the environment.

2. Container-pickup facilities as herein defined;

3. Source separated food waste fed to livestock in the State of New Jersey as approved by the New Jersey Department of Agriculture;

4. Recycling depots as defined at N.J.A.C. 7:26A-1.3 where individuals or organizations deposit separate materials such as newsprint, bottles, cans, and so forth, prior to transport to the secondary materials industry;

5. Convenience centers as defined at N.J.A.C. 7:26-1.4;

6. The intra-plant transport, temporary storage or other handling of plant generated waste materials. Specifically not exempt are those materials to be, or which are, deposited on or in the lands of this State for periods exceeding six months, or which through transport, storage or other handling will cause pollution of the surface or ground waters of this State, or which may pose a substantial or material threat to the public health, safety or welfare;

7. Any discharge of a mixture of domestic sewage and other waste that are discharged into a sewer system to a domestic treatment works, as defined in N.J.A.C. 7:14A, which is authorized in accordance with N.J.A.C. 7:14A and local ordinances.

i. This exemption does not include transport or discharge by waste transporters; and

8. Recycling operations and recycling centers approved and operated pursuant to N.J.A.C. 7:26A.

(b) In addition to the rules in this chapter, all solid waste landfill facilities are required to obtain a permit pursuant to the New Jersey "Water Pollution Control Act", N.J.S.A. 58:10A-1 et seq., and the regulations promulgated thereunder, "Regulations Concerning the New Jersey Pollutant Discharge Elimination System", N.J.A.C. 7:14A.

(c) The exemptions set out at (a)1 through 8 above are not applicable to activities associated with hazardous waste or regulated medical waste.

As amended, R.1981 d.84, effective March 6, 1981.

See: 12 N.J.R. 569(f), 13 N.J.R. 194(c).

(b) added.

As amended, R.1982 d.433, effective December 6, 1982.

See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a).

(c) added.

As amended, R.1983 d.610, effective January 3, 1984.

See: 15 N.J.R. 1800(a), 16 N.J.R. 47(b).

(a)6 added.

Amended by R.1987 d.534, effective December 21, 1987.

See: 19 N.J.R. 1035(a), 19 N.J.R. 2426(a).

Substantially amended.

Amended by R.1989 d.54, effective January 17, 1989.

See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Substantially amended (a).

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Added "hazardous" to the description of waste facilities, replaced "collection and haulage" with "solid waste transportation"; specific listing of the fee schedule elements deleted and replaced with generalized statement.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), inserted reference to civil administration penalties; in (a)1, inserted text "which would otherwise . . . to this chapter" and added last sentence; added (a)1i to (a)1iii; substantially amended (a)3; in (a)4, substituted "depots" for "centers" and inserted N.J.A.C. reference; inserted new (a)5; recodified former (a)5 and (a)6 as (a)6 and (a)7; added (a)8; and, in (c), made conforming changes and inserted reference to regulated medical waste.

Case Notes

New Jersey's waste flow control laws violated commerce clause. *Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*, D.N.J.1996, 931 F.Supp. 341.

Regulations did not exclude from definition of "sanitary landfill" a sole source facility which ceased operating prior to enactment of modern environmental statutes. *Johnson Machinery Co., Inc. v. Manville Sales Corp.*, 248 N.J.Super. 285, 590 A.2d 1206 (A.D.1991).

DEP complied with all Federal and State statutory and regulatory provisions in issuance of Air Pollution Control Permit and Solid Waste Permit to applicant. In the Matter of NJPDES Permit No. N.J. 0055247, et al., 216 N.J.Super. 1, 522 A.2d 1002 (App.Div.1987) certification denied 108 N.J. 185, 527 A.2d 1390 (1987).

Recycling center operates as solid waste facility where it accepts and buries materials as landfill. *New Jersey Department of Environmental Protection v. South Brunswick Asphalt*, 96 N.J.A.R.2d (EPE) 289.

Solid waste disposal violations debarred collectors from owing and operating any solid waste or recycling business within state. *Department of Environmental Protection v. Chad Lennon*, 95 N.J.A.R.2d (EPE) 33.

7:26-1.2 Construction and severability

(a) These rules shall be liberally construed to permit the Department to discharge its statutory function.

(b) If any subchapter, section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid in any judicial or administrative proceeding, such decision shall be confined in its operation to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered, and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

As amended, R.1984 d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

Formerly the Department and the Bureau of Solid Waste Management.

Amended by R.1992 d.100, effective March 2, 1992.

See: 23 N.J.R. 2453(b), 24 N.J.R. 788(a).

Severability clarified that if any provision of a rule is invalidated in any judicial or administrative proceeding, all other provisions of the rule remain in effect.

7:26-1.3 (Reserved)

As amended, R.1984 d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

Bureau Chief deleted.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Repealed by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Section was "Practice where rules do not govern".

7:26-1.4 Definitions

The following words and terms, when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Act" means the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., as amended and supplemented.

"Active life" of a hazardous waste facility means the period from the initial receipt of hazardous waste at the facility until the Department approves certification of final closure of the facility.

"Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after the effective date of N.J.A.C. 7:26-9.1 et seq. and which is not a closed portion.

"Adequately wet" means sufficiently mixed or penetrated with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

"Admixture" means two or more materials mixed together to be used as a liner. Admixtures include asphalt concrete, portland cement concrete and mixtures of soil and portland cement or bentonite.

"Applicant" means the person who submits an application for a permit under this chapter and in whose name the permit is to be issued, and for the purposes of N.J.A.C. 7:26-3, the person who files an application for an approved registration statement and in whose name the approved registration statement is to be issued.

"Approved registration" means the registration of a solid waste disposal site, transporter, or other solid or hazardous waste facility issued by the Department after review and approval of the registration statement.

"Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

"Asbestos-containing waste materials" or "ACWM" means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of 40 C.F.R. 61.140. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

"Beneficial use" means the use or reuse of a material, which would otherwise become solid waste under this chapter, as landfill cover, aggregate substitute, fuel substitute or fill material or the use or reuse in a manufacturing process to make a product or as an effective substitute for a commercial product. Beneficial use of a material shall not constitute recycling or disposal of that material.

"Boiler" means an enclosed device using controlled flame combustion to recover and export energy in the form of steam, heated fluids, or heated gases which:

1. Has a combustion chamber and primary energy recovery system of integral design (fluidized bed combustion units which are not of integral design will be reviewed by the Department on a case-by-case basis for classification as a boiler after considering the standards set out in 40 CFR Part 266). To be considered of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and super heaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

2. Maintains at least a 60 percent thermal energy recovery efficiency during operation, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

3. Demonstrates to the Department's satisfaction that at least 75 percent of the recovered energy is used annually. Recovered heat which is used internally shall not be counted in the 75 percent.

"Buffer zone" means those on-site areas adjacent to the sanitary landfill property line which shall be landscaped and left undeveloped.

"Bulk liquid or bulk semiliquid" means liquid or semiliquid which is contained within, or is discharged from, any one vessel, tank or other container which has the capacity of 20 gallons or more.

"Bulky waste" means large items of solid waste which because of their size or weight require handling other than normally used for municipal waste. Bulky waste includes, but is not limited to, such items as tree trunks, auto bodies, demolition or construction materials, appliances, furniture and drums.

"Burning" or "incinerating" means any method using combustion to decompose or otherwise change the physical, chemical, or biological composition of a solid waste.

"By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. The term does not include a "co-product" as defined herein.

"Catch-basin" means a chamber or well, usually built to the curbline of a street which admits surface water for discharge into a storm water drain.

"Category I nonfriable asbestos-containing material" means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than one percent asbestos as determined using methods specified in appendix A, Subpart F, 40 C.F.R. part 763, section 1, Polarized Light Microscopy.

"Category II nonfriable asbestos-containing material" means any material, excluding Category I nonfriable asbestos-containing material, containing more than one percent asbestos as determined using methods specified in Appendix A, Subpart F, 40 C.F.R. part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

"Cell" means compacted solid wastes that are enclosed by natural soil or cover material in a land disposal site.

"Clay" means a fine grain soil containing sufficient plastic fines (N. 200 sieve), on the order of 20 percent or greater such that the soil acts as a clay and will achieve the required

degree of impermeability. The soil should be classified as a CL, or CH (Unified Soil Classification System), with a liquid limit between 30-60, placed above the A-line on the plasticity chart and a minimum plastic index of 15. The soil should have a cation exchange capacity (CEC) greater than 15 meq/100 grams and be in the neutral pH range.

"Clean fill" means an uncontaminated nonwater-soluble, nondecomposable, inert solid such as rock, soil, gravel, concrete, glass and/or clay or ceramic products. Clean fill shall not mean processed or unprocessed mixed construction and demolition debris, including, but not limited to, wall-board, plastic, wood or metal. The non-water soluble, non decomposable inert products generated from an approved Class B recycling facility are considered clean fill.

"Co-composting facility" means a solid waste facility which utilizes a controlled biological process of degrading mixtures of nonhazardous solid waste and sewage sludge.

"Collection or collecting" means the act of picking up solid waste at its point of generation or storage.

"Commercial asbestos" means any material containing asbestos that is extracted from ore and has value because of its asbestos content.

"Commissioner" means the Commissioner of the Department of Environmental Protection or any other person designated to act on the Commissioner's behalf.

"Composite liner" means a combination of clay or admixture liner and a geomembrane.

"Composting facility" means a solid waste facility which utilizes a controlled biological process of degrading nonhazardous solid waste.

"Consignee" means the ultimate treatment, storage, or disposal facility in a receiving country to which hazardous waste will be sent.

"Construction and demolition waste" means waste building material and rubble resulting from construction, remodeling, repair, and demolition operations on houses, commercial buildings, pavements and other structures. The following materials may be found in construction and demolition waste: treated and untreated wood scrap; tree parts, tree stumps and brush; concrete, asphalt, bricks, blocks and other masonry; plaster and wallboard; roofing materials; corrugated cardboard and miscellaneous paper; ferrous and non-ferrous metal; non-asbestos building insulation; plastic scrap; dirt; carpets and padding; glass (window and door); and other miscellaneous materials; but shall not include other solid waste types.

“Container” means any portable device in which a solid waste is stored, transported, treated, disposed of, or otherwise handled.

“Containerized solid waste” means solid waste as defined at N.J.A.C. 7:26-2.13 that is completely sealed, locked, or otherwise enclosed in containers of sufficient structural integrity to prevent unauthorized access to the container’s contents, spillage and leakage. Containerized solid waste shall not be enclosed by use of a tarp or other cover that does not form a complete seal around the waste, or be accessed in any way while at the facility, or be allowed to emit any contaminants or odors to the air that may reasonably result in citizen complaints, or be in violation of N.J.A.C. 7:27-5.1.

“Container-pickup facility” means a site where one or more containers are located for temporary storage of solid waste at the point of waste generation while awaiting periodic removal to a registered solid waste facility. A container-pickup facility differs from a transfer station and a convenience center.

“Contingency plan” means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or discharge of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

“Continuous monitoring instrumentation” means a direct reading instrument which measures a given parameter on a continuous basis.

“Controlled processing” means the processing of solid waste in a manner which minimizes the potential discharge of any constituents of the solid waste into the environment.

“Controlling slopes” means slopes on those areas of the liner that have a direct influence on the maximum leachate head, or slopes that are perpendicular to the collection laterals.

“Convenience center” means a site where one or more containers are located for temporary storage of solid waste and/or recyclable materials brought to the site by persons transporting only their own household solid waste and/or recyclable materials in passenger automobiles bearing general registration plates.

“Co-product” means a material that is not a primary product, but is an incidentally produced product, of such quality that its composition is consistently equivalent to, or exceeds the standards for, a manufactured product of the same name. A co-product is used as a commodity in trade by the general public in the same form as it is produced, in lieu of an intentionally manufactured product.

“Cover material” means soil, earth or other material approved by the Department in accordance with N.J.A.C. 7:26-2A.8(b)14 which is used to cover compacted solid waste in a sanitary landfill for the purpose of rodent and vector control, to minimize moisture entering the fill, to provide a fire break, and in the case of final cover, to grow vegetation for erosion control. The depth or thickness of cover material to be measured after compaction with at least one pass of a bulldozer or other suitable equipment having a gross weight in excess of 10,000 pounds.

“Cutting” means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing, or punching.

“Daily cover” means cover material that is a minimum of six inches of depth or as approved by the Department in accordance with N.J.A.C. 7:26-2A.8(b)14.

“Department” means the New Jersey Department of Environmental Protection.

“Dike” means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

“Director” means the Director of the Division of Solid and Hazardous Waste or any person designated to act on the Director’s behalf.

“Discard or discarded” means disposal; burning or incinerating; use or reuse; and/or reclaim or reclamation, all as defined in this section.

“Discharge” or “hazardous waste discharge” means the unintentional or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land, water or air.

“Disposal” means the storage, treatment, utilization, processing or final disposition of solid waste, specifically including the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Disposal facility” means a solid waste facility used for the disposal of solid waste.

“Division” means the Division of Solid and Hazardous Waste in the Department.

“Domestic sewage” means waste or wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

“Double liner” means a two liner system separated by a leak detection/leachate removal system.

“Dump” means a land site at which solid waste is disposed of in a manner which does not protect the environment, is susceptible to open burning, or is exposed to the elements, vectors and scavengers.

“Empty tank” means a tank that meets the following criteria:

1. All wastes have been removed that can be removed by direct pumping or drainage; and
2. The quantity of residue remaining in the tank after waste removal is no more than one percent of the volume of the tank.

“Engineering design” means reports and drawing, including a narrative operating description, prepared by a New Jersey licensed professional engineer to describe a solid waste facility and its proposed operation.

“Environmental and health impact statement” or “EHIS” means a statement as to the realistically identifiable, probable impact of the proposed solid waste facility upon the geology, soils, hydrology, air quality, ecology, land use, socioeconomic, aesthetics, history and archeology; a listing of adverse environmental impacts which cannot be avoided; a description of the steps to be taken to minimize adverse environmental impacts during construction and operation both at the project site and in the surrounding region; a listing of alternatives to all or any part of the project with reasons for their acceptability or nonacceptability; and a reference list of pertinent published information relating to the project, the project site and the surrounding region.

“Environmental assessment” means an evaluation of the positive and negative changes to the environmental conditions at and around a particular site which may result from the implementation of a proposed action. Included is a determination of the magnitude of the potential changes and, where applicable, the identification of recommended mitigative measures to be incorporated.

“Environmental inventory” means a detailed and comprehensive description of the condition of all environmental parameters as they exist at and around the site of a proposed action prior to implementation of the proposed action. This description is used as a baseline for assessing the environmental impacts of a proposed action.

“Environmentally unsound” means any persistent or continuous condition resulting from the methods of operation or design of the solid waste facility which impairs the quality of the environment when compared to the surrounding background environment or any appropriate promulgated Federal, State, county or municipal standard.

“Environmental upgrading” means the addition or modification of the construction, operation or maintenance of a solid waste facility to abate or prevent the occurrence of an environmentally unsound condition.

“EPA” or “USEPA” means the United States Environmental Protection Agency.

“Exempt transporter” shall mean a transporter which is exempt from the requirement to file a disclosure statement, pursuant to N.J.A.C. 7:26-16.3(d).

“Existing solid waste facility” means that portion of an active solid waste facility which, as of the effective date of these regulations, possesses a valid approved registration from the Department.

“Expansion” means the process of increasing the design capacity, aerial or structural dimensions, vertical elevations or the slopes beyond the approved limits of the solid waste facility.

“Final cover” means cover material that is a minimum of 24 inches in depth.

“Food waste” means food processing by-products (food processing vegetative wastes and/or food processing residuals generated from food processing and packaging operations or similar industries that process food products), vegetative waste (produce trimmings and over-ripe produce generated by supermarkets, produce brokers and produce distributors), off-spec food products, food product overruns, and similar food waste materials.

“Foundation” means the supporting soil layers beneath a liner or cutoff wall.

“Freeboard” means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

“Free liquids” means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

“Free moisture” means liquid that drains freely by gravity from solid materials.

“Friable asbestos material” means any material containing more than one percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 C.F.R. part 763 section 1, polarized light microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), the asbestos content shall be verified by point counting using PLM.

“Generation” means the act or process of producing solid waste.

“Geomembrane” means a prefabricated continuous sheet of flexible polymeric material including synthetic membranes, polymeric membranes, flexible membrane liners and plastic liners.

“Ground water” means that water below ground, the static pressure of which is equal to or greater than prevailing atmospheric pressure; that water present in the saturated zone of an aquifer.

“Hydraulic asphalt concrete” means a controlled mixture of asphalt cement and high quality mineral aggregate compacted into a uniform dense mass.

“Impermeable liner” means a layer of natural and/or man-made material of sufficient thickness, density and composition so as to have a maximum permeability for water of 1×10^{-7} cm/sec at the maximum anticipated hydrostatic pressure.

“Incinerator” means a thermal device in which solid waste is burned for the purposes of volume reduction (an incinerator used to obtain energy shall be classified as a resource recovery facility).

“Incompatible waste” means a solid waste which is unsuitable for:

1. Placement in a particular device or facility because it may cause corrosion or decay of containment materials (for example, container inner liners or tank walls); or
2. Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

“Individual generation site” means the contiguous site at or on which one or more solid wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of solid waste but is considered a single or individual generation site if the site or property is contiguous.

“Industrial boiler” means a boiler for use in a manufacturing process or manufacturing facility.

“Industrial furnace” means an enclosed device which is an integral component of a manufacturing process and which uses controlled flame combustion to recover materials or energy including the following: lime kilns, aggregate kilns, phosphate kilns, coke ovens, blast furnaces, smelting furnaces, melting furnaces, refining furnaces, titanium dioxide chloride process oxidation reactors, methane reforming furnaces, pulping liquor recovery furnaces, sulfuric acid plant sulfur recovery furnaces and such other devices as the Department may add to this list on the basis of one or more of the following factors:

1. The design and use of the device primarily to accomplish recovery of material products;
2. The use of the device to burn or reduce raw materials to make a material product;

3. The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

4. The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product; and/or

5. Other factors as appropriate.

“Infectious waste” means solid waste that is defined as infectious by the New Jersey State Department of Health.

“Intermediate cover” means cover material that is a minimum of 12 inches in depth.

“Intermodal container facility” means a facility where containerized solid waste is transferred from one mode of transportation, such as trucks, rail cars, ships and barges, to another, or from one vehicle to another within one mode of transportation.

“Leachate” means liquid that has been in contact with solid waste.

“Leak-tight” means that solids or liquids cannot escape or spill out. It also means dust-tight.

“Lethal chemical” means ammunition, chemical or biological warfare agent, pyrotechnic material and military store of any kind capable of being used to inflict death or harm to man or his environment.

“Licensee” shall, for purposes of N.J.A.C. 7:26-3.2, be defined as set forth in N.J.S.A. 13:1E-127i.

“Lift” means a compacted layer of solid waste plus its overlying cover material in a sanitary landfill.

“Marketable residual product” means any residual or material derived from a residual which has been prepared for land application in accordance with a permit issued pursuant to N.J.A.C. 7:14A and which, at a minimum, meets the pollutant concentrations in 40 C.F.R. 503.13(b)(1), the Class B pathogen requirements in 40 C.F.R. 503.32 and one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) through (b)(8).

“Materials recovery facility” means a solid waste facility such as a transfer station which is primarily designed, operated and permitted to process a nonhazardous solid waste stream by utilizing manual and/or mechanical methods to separate from the incoming waste stream categories of useful materials which are then returned to the economic mainstream in the form of raw materials or product of reuse.

“Modular design” means a design which provides for the sequential construction and filling of discrete units of a sanitary landfill in a phased manner.

“Municipal solid waste” means residential, commercial and institutional solid waste generated within a community.

“New solid waste facility” means any solid waste facility or portion thereof which does not qualify as an existing solid waste facility.

“NJPDES” means the New Jersey Pollutant Discharge Elimination System.

“Non-container plastic materials” means source separated nonputrescible plastic materials other than plastic containers.

“Nonfriable asbestos-containing material” means any material containing more than one percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 C.F.R. part 763 section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

“On-site” means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is a cross-road intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

“Open burning” means the combustion of any material without the following characteristics.

1. Control of combustion air to maintain adequate temperature for efficient combustion;
2. Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion;
3. Control of emission of the gaseous combustion products.

“Pathological waste”: See “Infectious waste.”

“PCB hazardous waste” means any hazardous waste with concentrations of PCBs of 50 parts per million (ppm) or greater by dry weight.

“Permit” means the approval issued by the Department to construct and operate a solid waste facility and means the approved registration statement and engineering design approval described in the Solid Waste Management Act.

“Permittee” shall, for purposes of N.J.A.C. 7:26-3.2, be defined as set forth in N.J.S.A. 13:1E-127i.

“Person” means an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), corporate official, partnership, associa-

tion, State, municipality, commission, political subdivision of a State, or any interstate body.

“Personnel” or “facility personnel” means all persons who work at, or oversee the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of this chapter.

“Precious metals” means gold, silver, platinum, palladium, irridium, osmium, rhodium, ruthenium, or a combination consisting of two or more of these eight metals.

“Publicly-owned treatment works” or “POTW” means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by the State, a municipality or a public authority. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

“Putrescible waste” means any waste liable to enter into a state of putrefaction, the typically anaerobic splitting of proteins by bacteria and fungi with the formation of foul-smelling, incompletely oxidized products.

“Reclaim” or “reclamation” means a procedure whereby a material is treated to recover a usable product, or where a material is regenerated. Examples are recovery of lead values from spent batteries, regeneration of spent solvents and removal of impurities from spent solvents or other hazardous wastes to render them usable as fuels.

“Recycling center” means a facility designed and operated solely for receiving, storing, processing and transferring source separated, nonputrescible or source separated commingled nonputrescible metal, glass, paper, plastic containers, and corrugated and other cardboard, or other recyclable materials approved by the Department.

“Recyclable materials” means materials which would otherwise become nonhazardous solid waste which can be separated, collected and processed and returned to the economic mainstream in the form of raw materials or products.

“Recycling or reclamation facility” means any place, equipment or plant designed and/or operated for the purpose of recycling or reclamation, as defined above, to collect, store, process or to redistribute separated waste so as to return the material to market.

“Registrant” means an applicant who has obtained an approved registration statement and who has registered solid or hazardous waste cabs, vehicles, trailers, containers, transport units or single-unit vehicles.

“Registration”: See “Approved registration.”

“Registration statement” means an application for approved registration executed on forms provided by the

Department and containing such information as may be required.

“Regulated asbestos-containing material” or “RACM” means friable asbestos material, Category I nonfriable asbestos-containing material that has become friable, Category I nonfriable asbestos-containing material that will be or has been subjected to sanding, grinding, cutting, or abrading, or Category II nonfriable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

“Representative sample” means a sample of a universe or whole which can be expected to exhibit the average properties of the universe or whole.

“Residue” means any material that remains after completion of thermal, mechanical or chemical processing.

“Resilient floor covering” means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than one percent asbestos as determined using polarized light microscopy according to the method specified in Appendix A, Subpart F, 40 C.F.R. part 763, section 1, Polarized Light Microscopy.

“Resource recovery facility” means any place, equipment, device or plan designed and/or operated to separate or process solid or liquid waste into usable secondary materials, including fuel and energy.

“Run-off” means the liquid that drains from an area as surface flow.

“Run-on” means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

“Salvaging” means the controlled removal of waste materials from a solid waste disposal facility for reuse.

“Sanitary landfill” means a solid waste facility, at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste pursuant to this chapter. Sanitary landfills shall be further classified into one of the following classes:

1. “Class I sanitary landfill” means a solid waste facility which may accept all types of nonhazardous solid waste including ID 10, 13, 23, 25, 27, 72;
2. “Class II sanitary landfill” means a solid waste facility which may accept only ID type 27 or a specific category of ID type 27 of nonhazardous solid waste; and
3. “Class III sanitary landfill” means a solid waste facility which may accept only inert nonputrescible nonhazardous solid waste, ID 13 or 23.

“Scrap metal” means bits and pieces of metal parts (for example, bars, turnings, rods, sheets, wire) or metal pieces which may be combined together with bolts or soldering (for example, radiators, scrap automobiles, railroad box cars) which when worn or superfluous, can be recycled. Materials not covered by this term include residues generated from smelting and refining operations (that is, drosses, slags, and sludges), liquid wastes containing metals (that is, spent acids, spent caustics, or other liquid wastes with metals in solution), liquid metal wastes (for example, liquid mercury), or metal-containing wastes with a significant liquid component, such as spent batteries.

“Scrap metal shredding facility” means an industrial facility which:

1. Receives and stores motor vehicles, appliances, other source separated, non-putrescible ferrous and non-ferrous metals;
2. By mechanical shredding, reduces materials listed in paragraph 1 above in volume and alters the physical characteristics of such materials; and
3. Transfers the ferrous and non-ferrous metals remaining after shredding of materials listed in paragraph 1 above, for reintroduction into the economic mainstream for sale or reuse.

“Segregation” means the systematic division of solid waste into components.

“Semiliquid” means a mixture consisting of solid matter suspended in a liquid media (for example, a slurry).

“Septic waste” means a mixture consisting of sewage solids combined with water and dissolved materials in varying amount.

“Sewage sludge” means solid, semi-solid or liquid residue generated by the processes of a domestic treatment works as defined at N.J.A.C. 7:14A. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and any material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works. For the purposes of this chapter, scum which is not combined with the solids removed in primary, secondary or advanced wastewater treatment processes is not considered to be sewage sludge.

“Sludge” means any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

“Small scale solid waste facility” means a facility which is limited by its SWF permit in capacity to less than 100 tons per day in a six day per week operation for transfer stations and material recovery facilities and to less than 800 pounds per hour (9.6 tons per day) for thermal destruction facilities.

“Soil cement” means a mixture of soil portland cement and water. As the cement hydrates the mixture forms a hard, durable, low strength concrete.

“Solid waste” see N.J.A.C. 7:26-1.6.

“Solid waste cab” means any powered device to which a solid waste trailer can be attached for transporting solid waste, excluding hazardous waste, off-site by roadway. Solid waste cab includes, but is not limited to, the tractor portion of an articulated vehicle.

“Solid waste container” means any non-powered, portable detachable device that is used to contain and transport solid waste off-site or to a solid waste facility by road, rail, water, or air and that is not normally disposed of with its cargo. A container is normally used in conjunction with a solid waste cab and trailer or a solid waste single-unit vehicle and includes, but is not limited to, roll-off boxes, dumpsters, hoppers, lugger boxes, portable tanks, or any similar appurtenance, except that it shall not include metal, fiber, or plastic containers with a capacity of less than 100 gallons.

“Solid waste facility” means any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovering or disposal of solid waste but shall not include a recycling center, a regulated medical waste collection facility authorized pursuant to N.J.A.C. 7:26-3A.39, or an intermodal container facility authorized by the Department pursuant to N.J.A.C. 7:26-3.6.

“Solid waste facility performance partnership agreement” or “SWFPPA” means the document executed by a solid waste facility permittee and the Department setting forth the voluntary goals and milestones by which the permittee is to reduce the environmental impacts of the solid waste facility below the approved environmental limits established in the permit for the facility.

“Solid waste facility permit” or “SWF permit” means a certificate of approved registration and engineering design approval for a nonhazardous solid waste facility. For the purposes of N.J.A.C. 7:26-16 and 16A, a solid waste facility permit shall mean a license as that term is defined at N.J.A.C. 7:26-16.2.

“Solid waste management” means the purposeful, systematic control of the generation, storage, collection, processing, transfer, transportation, separation, recycling, recovery and disposal of solid wastes.

“Solid waste single-unit vehicle” means any self-propelled, non-articulated device, with either a detachable or non-detachable cargo compartment, which is used to move solid waste off-site or to a solid waste facility by road. A solid waste single-unit vehicle includes, but is not limited to, front and rear loading compactor vehicles, straight roll-off vehicles, straight vans, dump trucks, pick-up, straight flat beds, and straight tank and vacuum trucks.

“Solid waste trailer” means any non-powered device that normally has a permanently attached receptacle or area for carrying a solid waste payload. A solid waste trailer is usually employed in conjunction with a solid waste cab and includes, but is not limited to, flat bed trailers, box trailers, vans, open top trailers, compactor trailers, dump trailers, tank trailers, vacuum trailers, roll-off trailers, rail cars, and barges.

“Solid waste vehicle” means any self-propelled device used to move solid waste off-site or to a solid waste facility by road. A solid waste vehicle includes, but is not limited to, a solid waste single-unit vehicle, solid waste cab and trailer, single-unit vehicle and container, or a cab, trailer, and container combination.

“Source separated” means recyclable materials were separated from the solid waste stream at the point of generation.

“Spent material” means any material that has been used, and as a result of contamination, can no longer serve the purpose for which it was intended without being processed, reprocessed or reclaimed.

“Standby letter of credit” means an irrevocable engagement by an issuing bank, at the request of an owner or operator, that it will honor demands for payment made by the New Jersey Department of Environmental Protection for the period of the letter of credit and under terms specified for letter of credit in this chapter.

“Subgrade” means the foundation of supporting soil layer beneath a constructed liner other than a recompacted in situ clay liner.

“Surety bond” means a contract by which a surety company engages to be answerable for the default or debts by an owner or operator on responsibilities relating to closure or post-closure care, and agree to satisfy these responsibilities if the owner or operator does not, in accordance with the terms specified for surety bonds in this chapter.

“Surface impoundment” or “impoundment” means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface im-

poundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

“Surface water” means water at or above the land’s surface which is neither ground water nor contained within the unsaturated zone, including, but not limited to, the ocean and its tributaries, all springs, streams, rivers, lakes, ponds, wetlands, and artificial waterbodies.

“Tank” means a stationary device, designed to contain an accumulation of solid waste which is constructed primarily of non-earthen materials which provide structural support.

“Thermal destruction facility” means a nonhazardous solid waste facility which utilizes a thermal device to either burn waste or chemically decompose waste by heating it in an oxygen deficient atmosphere. Energy recovery systems may be utilized in conjunction with the thermal device.

“Toe” means the bottom of the working face or side slope of a land disposal site where deposited solid waste is in contact with virgin ground or previous lift.

“Transfer station” means a solid waste facility at which solid waste is transferred from one solid waste vehicle to another solid waste vehicle, including a rail car, for transportation to an off-site solid waste facility, except that a “transfer station” shall not include any solid waste facility at which solid waste is received for onsite transfer and processing or disposal utilizing facility-owned or operated equipment and vehicles operated therefor.

“Transit country” means any foreign country, other than a receiving country, through which a hazardous waste is transported.

“Transportation” or “transporting” means the act of collecting and/or moving solid waste off-site or to a solid or hazardous waste facility by road, rail, water, or air.

“Transporter” means a person engaged in the act of collecting and/or moving of solid waste off-site by road, rail, water, or air.

“Treat” or “treatment” means any method, technique, or process, including neutralization or other pH adjustment, designed to change the physical, chemical, or biological character or composition of a material so as to:

1. Neutralize or otherwise change the pH of such material;
2. Recycle energy or material resources from the material;
3. Render such material non-hazardous, or less hazardous;
4. Render the material safer to transport, store, or dispose of; or

5. Render the material more amenable for recycling or storage or which reduces the volume of the material.

“Trust fund” means a fund established by an owner or operator and held by a financial institution (licensed by the State of New Jersey) as the trustee with a fiduciary responsibility to carry out the terms of the trust as specified in this chapter for the benefit of the New Jersey Department of Environmental Protection.

“Used oil” means any oil that has been refined from crude oil, or any synthetic oil that has been used, and as a result of such use, storage or handling is contaminated by physical or chemical impurities.

“Vector” means an organism, including insects, other arthropods or rodents, that is capable of transmitting pathogen from one organism to another.

“Vicinity” means the area encompassing one half mile from the perimeter of a nonhazardous solid waste facility.

“Visible emissions” means any emissions that are visually detectable without the aid of instruments, coming from regulated asbestos-containing material or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation. This does not include condensed, uncombined water vapor.

“Working face” means that portion of a sanitary landfill site where solid waste is discharged by a solid waste vehicle and is spread and compacted prior to placement of cover material.

As amended, R.1978 d.72, effective February 27, 1978.

See: 9 N.J.R. 459(d), 10 N.J.R. 146(a).

As amended, R.1981 d.281, effective August 6, 1981.

See: 12 N.J.R. 511(a), 13 N.J.R. 484(b).

Substantially amended.

As amended, R.1981 d.370, effective October 8, 1981.

See: 12 N.J.R. 511(a), 13 N.J.R. 706(b).

Substantially amended.

As amended, R.1982 d.324, effective October 4, 1982.

See: 13 N.J.R. 567(a), 14 N.J.R. 1089(d).

“Authorized facility” and “Incinerator” amended; “Hazardous waste incinerator” and “New hazardous waste incinerator” defined.

As amended, R.1982 d.433, effective December 6, 1982.

See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a).

“Container”, “Disposal”, “Generator”, “Hazardous waste”, “Hazardous waste landfill”, “Leachate”, “Opening burning”, and “Personnel”, amended.

As amended, R.1983 d.25, effective February 7, 1983.

See: 15 N.J.R. 146(a), 15 N.J.R. 333(a).

“Authorized facility”: last sentence added.

As amended, R.1983 d.192, effective June 6, 1983.

See: 14 N.J.R. 883(a), 15 N.J.R. 894(c).

“Sanitary landfill” revised.

As amended, R.1983 d.350, effective September 6, 1983.

See: 15 N.J.R. 390(a), 15 N.J.R. 1474(a).

“Authorized facility” revised; “Gas cylinder facility” added.

As amended, R.1983 d.570, effective December 5, 1983.

See: 15 N.J.R. 660(a), 15 N.J.R. 2040(b).

“Chemical waste” deleted; “Infectious waste” revised.

As amended, R.1983 d.610, effective January 3, 1984.

See: 15 N.J.R. 1800(a), 16 N.J.R. 47(b).

“Permit” and “Publicly-owned treatment works” added.

As amended, R.1983 d.623, effective January 17, 1984.

See: 14 N.J.R. 1435(a), 16 N.J.R. 132(a).

"Recycling" and "reclamation" defined; "reclamation" added "Recycling facility".

As amended, R.1984 d.198, effective May 21, 1984.

See: 15 N.J.R. 1997(a), 16 N.J.R. 1230(a).

"Waste pile" added to "Hazardous waste landfill".

As amended, R.1984 d.279 effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

Revised to reflect Division of Waste Management jurisdiction.

Amended by R.1985 d.65, effective February 19, 1985.

See: 16 N.J.R. 440(a), 17 N.J.R. 446(a).

Added definition "Friable asbestos material"; deleted "Non-friable asbestos-containing waste".

Amended by R.1985, d.620, effective June 17, 1985.

See: 17 N.J.R. 1501(a), 17 N.J.R. 2885(a).

Added definition "empty tank."

Amended by R.1986 d.160, effective May 5, 1986.

See: 17 N.J.R. 1968(a), 18 N.J.R. 981(a).

Added definition "tolling agreement".

Amended by R.1986 d.347, effective August 18, 1986.

See: 17 N.J.R. 2716(a), 18 N.J.R. 1701(a).

Added definitions "Use or reuse", "waste reuse facility" and "waste reuse facility identification number".

Amended by R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Substantially amended.

Amended by R.1987 d.234, effective June 15, 1987.

See: 18 N.J.R. 878(a), 19 N.J.R. 1091(a).

The text deleted from "waste oil" definition was "after sale to a customer".

Amended by R.1987 d.534, effective December 21, 1987.

See: 19 N.J.R. 1035(a), 19 N.J.R. 2426(a).

Substantially amended.

Amended by R.1988 d.377, effective August 1, 1988.

See: 19 N.J.R. 1936(a), 20 N.J.R. 1908(a).

Changed CFR parts in definition "Authorized facility" from 122 to 270 and 123 to 271.

Emergency amendment, R.1988 d.547, effective October 26, 1988 (expires December 25, 1988.)

See: 20 N.J.R. 2817(a).

Amended definition "leaf composting facility" by deleting text "or in combination . . ." and adding "and shall also . . ."; added "vegetative waste composting facility".

Amended by R.1989 d.54, effective January 17, 1989.

See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Substantially amended.

Adopted concurrent proposal, R.1989 d.55, effective December 23, 1988.

See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).

Provisions of emergency amendment R.1988 d.547, readopted without change.

Amended by R.1989 d.206, effective April 17, 1989.

See: 20 N.J.R. 2650(a), 21 N.J.R. 991(a).

Added definitions "active life", "final closure", "hazardous waste management unit" and "partial closure".

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Deleted definitions for "collection-hauler" and "collection-vehicle"; amended definitions "collection" by adding "or collecting", "transfer station" by referring to solid waste vehicle and "working face" by changing land disposal to sanitary landfill site; and added new definitions for "solid waste cab", "solid waste container", "solid waste single-unit vehicle", "solid waste trailer", "solid waste vehicle", "transportation" or "transporting" and "transporter".

Amended by R.1990 d.228, effective May 7, 1990.

See: 21 N.J.R. 3705(a), 22 N.J.R. 1362(a).

Added "Treatability study".

Amended by R.1990 d.260, effective May 21, 1990.

See: 21 N.J.R. 1047(a), 22 N.J.R. 1565(a).

Added "PCB hazardous waste" and "Polychlorinated biphenyls".

Amended by R.1990 d.445, effective September 4, 1990.

See: 22 N.J.R. 1472(a), 22 N.J.R. 2826(a).

Definition of hazardous waste hauler changed to hazardous waste transporter, definitions added for consignee, EPA, EPA acknowledgment of consent, primary exporter, receiving country and transit country.

Amended by R.1992 d.100, effective March 2, 1992.

See: 23 N.J.R. 2453(b), 24 N.J.R. 788(a).

Corrected formula in "impermeable liner".

Amended by R.1993 d.27, effective January 4, 1993.

See: 24 N.J.R. 1995(a), 25 N.J.R. 92(a).

Defined "scrap metal shredding facility".

Emergency Amendment R.1996 d.114, effective January 26, 1996 (operative January 29, 1996, to expire March 26, 1996).

See: 28 N.J.R. 1305(a).

Amended by R.1996 d.169, effective April 1, 1996.

See: 27 N.J.R. 801(a), 28 N.J.R. 1834(a).

Added "containerized solid waste" and "intermodal container facility", and amended "solid waste facility".

Adopted concurrent proposal, R.1996 d.202, effective March 26, 1996.

See: 28 N.J.R. 1305(a), 28 N.J.R. 2380(a).

Deleted "demolition waste" and rewrote "construction waste" as "construction and demolition waste".

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added and amended numerous definitions; and deleted definitions for "administration", "asbestos containing waste", "bureau", "bureau chief", "commingled recyclable material", "degree of uncertainty of strength measurement-high", "degree of uncertainty of strength measurement-low", "leaf composting facility", "polychlorinated biphenyls", "regional", "scavenging", "set back", "vegetative waste composting facility", and "waste oil".

Administrative change.

See: 30 N.J.R. 3948(a).

Amended by R.2000 d.75, effective February 22, 2000.

See: 31 N.J.R. 1429(a), 32 N.J.R. 693(a).

Inserted "Exempt transporter", "Licensee" and "Permittee".

Law Review and Journal Commentaries

Environmental Law—Administrative Procedure—Solid Waste. P.R. Chenoweth, 134 N.J.L.J. No. 13, 54 (1993).

Case Notes

Landfill was "sanitary landfill" within meaning of Sanitary Landfill Closure and Contingency Fund Act; facilities "approved for disposal of hazardous waste". State of N.J. Dept. of Environmental Protection and Energy v. Gloucester Environmental Management Services, Inc., D.N.J. 1994, 866 F.Supp. 826.

Landfill was "sanitary landfill facility" within meaning of New Jersey's Sanitary Landfill Facility Closure and Contingency Fund Act; disclosure in purchase agreement. National-Standard Co. v. Clifton Ave. Corp., D.N.J.1991, 775 F.Supp. 151.

Unlicensed facility was properly enjoined from operating without a permit in violation of Solid Waste Management Act; penalty. State, Dept. of Environmental Protection v. Interstate Recycling, Inc., 267 N.J.Super. 574, 632 A.2d 526 (A.D.1993).

Operator of hazardous waste facility could not construct new incinerator without submitting Environmental Impact Statement (EIS). Matter of Hazardous Waste Facility Permit No. 0901D21HP01 by Dept. of Environmental Protection to ICI Americas, Inc., 258 N.J.Super. 483, 610 A.2d 420 (A.D.1992).

Department of Environmental Protection (DEP) must strictly construe its own regulations. Matter of Hazardous Waste Facility Permit No. 0901D21HP01 by Dept. of Environmental Protection to ICI Americas, Inc., 258 N.J.Super. 483, 610 A.2d 420 (A.D.1992).

Construction of new incinerator changed existing hazardous waste facility into "new facility" requiring submission of Environmental Impact Statement (EIS). Matter of Hazardous Waste Facility Permit No.

0901D21HP01 by Dept. of Environmental Protection to ICI Americas, Inc., 258 N.J.Super. 483, 610 A.2d 420 (A.D.1992).

Sludge Management Plan exempted sludge-only thermal reduction facilities from permitting requirement of the Solid Waste Management Act. Terminal Const. Corp. v. Hoboken-Union City-Weehawken Sewerage Authority, 244 N.J.Super. 537, 582 A.2d 1288 (A.D.1990), certification denied 126 N.J. 323, 598 A.2d 883.

Owners of land upon which unauthorized solid waste landfill was located came within authority of Department of Environmental Protection and County Health Department. Middlesex County Health Dept. v. Roehsler, 235 N.J.Super. 262, 561 A.2d 1212 (L.1989).

Purchaser of closed, nonhazardous landfill could maintain action to require township operator of landfill to fulfill its responsibilities for closing landfill. Port of Monmouth Development Corp. v. Middletown Tp., 229 N.J.Super. 445, 551 A.2d 1030 (A.D.1988), certification denied 115 N.J. 59, 556 A.2d 1206.

Surface of landfill upon which detinning facility was built was not "landfill," as defined by Solid Waste Management Act. Matter of Vulcan Materials Co., ECRA Case No. 84379, 225 N.J.Super. 212, 542 A.2d 25 (A.D.1988).

Proposed sludge management facility was "facility" within meaning of the Solid Waste Management Act; sewage sludge to be handled by facility was "solid waste" within meaning of the Act; the Act preempted local zoning and planning regulations. Ocean County Utilities Auth. v. Planning Bd. of Berkeley Twp., Ocean Co., 221 N.J.Super. 621, 535 A.2d 550 (Law Div.1987) affirmed 223 N.J.Super. 461, 538 A.2d 1307.

Transfer station definition cited in determination that municipal operation of solid waste transfer facility was not the operation of a public utility requiring public referendum approval. Hughes v. Twp. of Ewing, 137 N.J.Super. 119, 348 A.2d 199 (App.Div.1975).

Former N.J.A.C. 7:1-4.1 definition of hazardous waste falls into the category of nonmerchantable material not subject to Commerce Clause restrictions on regulation. Hackensack Meadowlands Development Commission v. Municipal Sanitary Landfill Authority, 127 N.J.Super. 160, 316 A.2d 711 (Ch.Div.1974), reversed 68 N.J. 451, 348 A.2d 505, (1975), vacated and remanded 97 S.Ct. 987, 430 U.S. 141, 51 L.Ed.2d 224, on remand 73 N.J. 562, 376 A.2d 888 (1977).

Corporate successor to tank facility strictly liable to comply with hazardous waste requirements. Department of Environmental Protection v. Warner, 95 N.J.A.R.2d (EPE) 245.

7:26-1.5 (Reserved)

As amended, R.1984 d.40, effective February 21, 1984.

See: 15 N.J.R. 2017(a), 16 N.J.R. 367(b).

"Repealed or regulations" not readopted.

Amended by R.1990 d.261, effective May 21, 1990.

See: 21 N.J.R. 1053(a), 22 N.J.R. 1573(b).

Revised "Existing hazardous waste facility".

Case Notes

Former regulation banning disposal of out-of-state wastes in Hackensack Meadowlands sanitary landfills held unconstitutional as an undue burden on interstate commerce. Hackensack Meadowlands Development Commission v. Municipal Sanitary Landfill Authority, 127 N.J.Super. 160, 316 A.2d 711 (Ch.Div.1974), reversed 68 N.J. 451, 348 A.2d 505, (1975), vacated and remanded 97 S.Ct. 987, 430 U.S. 141, 51 L.Ed.2d 224, on remand 73 N.J. 562, 376 A.2d 888 (1977).

7:26-1.6 Definition of solid waste

(a) A solid waste is any garbage, refuse, sludge, or any other waste material except it shall not include the following:

1. Source separated food waste collected by livestock producers, approved by the State Department of Agriculture, who collect, prepare and feed such wastes to livestock on their own farms; or

2. Recyclable materials that are exempted from regulation pursuant to N.J.A.C. 7:26A;

3. Materials approved for beneficial use or categorically approved for beneficial use pursuant to N.J.A.C. 7:26-1.7(g); or

4. Spent sulfuric acid which is used to produce virgin sulfuric acid, provided at least 75 percent of the amount accumulated in recycled in one year.

(b) Any "other waste material" is any solid, liquid, semi-solid or contained gaseous material, including, but not limited to spent material, sludge, by-product, discarded commercial chemical products, or scrap metal resulting from industrial, commercial, mining or agricultural operations, from community activities, or any other material which has served or can no longer serve its original intended use, which:

1. Is discarded or intended to be discarded; or

2. Is accumulated, stored or physically, chemically or biologically treated prior to, or in lieu of, being discarded;

3. Is burned for energy recovery;

4. Is applied to the land or placed on the land or contained in a product that is applied to or placed on the land in a manner constituting disposal; or

5. Is recycled.

(c) A material is also a solid waste if it is "disposed of" by being discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground or surface waters.

(d) The definition of solid waste contained in this section applies only to wastes that are not also hazardous for purposes of the Department's hazardous waste regulations set forth at N.J.A.C. 7:26G.

R.1981 d.281, effective August 6, 1981.

See: 12 N.J.R. 511(a), 13 N.J.R. 484(b).

Amended by R.1986 d.160, effective May 5, 1986.

See: 17 N.J.R. 1968(a), 18 N.J.R. 981(a).

Amended by R.1987 d.534, effective December 21, 1987.

See: 19 N.J.R. 1035(a), 19 N.J.R. 2426(a).

Substantially amended.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a)1, substituted "livestock" for "swine" and "approved" for "licensed"; in (a)2, amended N.J.A.C. reference; inserted new (a)3; recodified former (a)3 as (a)4; and rewrote (d).

Case Notes

Proposed sludge management facility was "facility" within meaning of the Solid Waste Management Act; sewage sludge to be handled by facility was "solid waste" within meaning of the Act; the Act preempted local zoning and planning regulations. *Ocean County Utilities Auth. v. Planning Bd. of Berkeley Twp., Ocean Co.*, 221 N.J.Super. 621, 535 A.2d 550 (Law Div.1987) affirmed 223 N.J.Super. 461, 538 A.2d 1307.

7:26-1.7 Exemption from SWF permitting

(a) Pursuant to N.J.S.A. 13:1E-4a, the Commissioner may exempt, from the requirement of Solid Waste Facility permitting as set forth in N.J.A.C. 7:26-2, and may grant a permanent or temporary certificate of authority to operate, with or without conditions, to these classes of solid waste collection or disposal facilities or operations which in the Commissioner's opinion meet the general and applicable specific criteria set forth in this section.

(b) The owner or operator of any facility or operation of a class exempted pursuant to this section shall comply with all conditions set forth in its certificate of authority to operate. Noncompliance with a certificate of authority to operate shall subject the holder to a penalty pursuant to N.J.S.A. 13:1E-9 and/or suspension or revocation of authority to operate.

1. The owner or operator of a facility for which authority to operate has been revoked or suspended shall be afforded the opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 51:14B-1 et seq., subsequent to the revocation or suspension. The request for a hearing shall be sent to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, PO Box 402, Trenton, New Jersey 08625-0402.

2. In no way shall the granting of a temporary certificate of authority to operate be interpreted as entitling the holder to final registration and engineering design approval.

(c) General criteria for all exemptions:

1. Any exemption granted to a class of facilities or operations pursuant to this section shall be consistent with the purpose and intent of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and

2. No exemption shall be granted to a class of facilities or operations which will pose a threat to public health or the environment.

(d) This subsection sets forth the specific criteria for exempting sanitary landfills:

1. A certificate of authority to operate shall be granted to a sanitary landfill facility provided that:

i. The proposed owner or operator of the facility is determined by the Department, after a preliminary review of such information as the Department may require, to demonstrate sufficient integrity, expertise and competence to operate a sanitary landfill facility in compliance with the Solid Waste Management Act and the certificate of authority to operate;

ii. It would be possible for the facility to qualify for a registration pursuant to the Solid Waste Management Act;

iii. All preparatory work necessary to permit safe and environmentally sound operation can be accomplished prior to the commencement of operations at the site;

iv. Use of the facility prior to the time that a registration can be issued pursuant to N.J.A.C. 7:26-2 is essential in order to avoid a major disruption in the operation of one or more solid waste management plans or in order to comply with a judicial decree or statutory requirement to provide disposal facilities in a particular district; and

v. A schedule has been established and incorporated into the certificate of authority to operate for compliance with all the requirements for registration under N.J.S.A. 7:26-2. The schedule may call for accomplishing one or more registration requirements after commencement of facility operation.

(e) This subsection sets forth the specific criteria for exempting transfer stations.

1. A certificate of authority to operate shall be granted to a transfer station facility provided that:

i. The proposed owner or operator of the facility is determined by the Department, after a preliminary review of such information as the Department may require, to demonstrate sufficient integrity, expertise and competence to operate a transfer station facility in compliance with the Solid Waste Management Act and the certificate of authority to operate. Where this determination is made pursuant to N.J.S.A. 13:1E-135 and N.J.A.C. 7:26-16.5(c), the certificate of authority to operate shall not be issued for a period exceeding six months and may, in the Department's discretion, be renewed for one additional consecutive six month period;

ii. Use of the facility prior to the time that a registration can be issued pursuant to N.J.A.C. 7:26-2 is essential in order to avoid a disruption in the provision of solid waste disposal services, which disruption would be inconsistent with the purpose and intent of the Solid Waste Management Act and the District Solid Waste Management Plan;

iii. The facility will be designed, constructed, and operated in a manner consistent with the public health, safety and the environment under the circumstances. Notwithstanding any other requirement specified in Title 7 of the New Jersey Administrative Code, the facility requirements for design, construction and operation shall be those specified as conditions in the certificate of authority to operate; and

iv. A schedule has been established and incorporated into the certificate of authority to operate for compliance with all the requirements of N.J.A.C. 7:26-2 and 7:26-2B for registration of this facility or of an alternative facility (where the subject facility is designed for temporary operation only). The schedule may call for accomplishing one or more registration requirements after commencement of facility operation.

2. Notwithstanding any other provision of this chapter, the proposed owner or operator of the facility shall submit the following in application for a certificate of authority to operate a transfer station:

i. Where applicable, a disclosure statement pursuant to N.J.S.A. 13:1E-126 et seq. and N.J.A.C. 7:26-16 on such forms as the Department requires. The disclosure statement, where appropriate, should be accompanied

by a written request for a temporary license pursuant to N.J.S.A. 13:1E-135 and N.J.A.C. 7:26-16.5(c).

ii. An emergency environmental and health impact statement pursuant to (e)3 below; and

iii. An engineering design which specifies the following:

(1) Site plan map including layout of the facility buildings or structures, profile and elevation views and interior floor plan;

(2) Access roads;

(3) Fencing;

(4) Scales, if required pursuant to N.J.S.A. 13:1E-117;

(5) On site queueing;

(6) Facility and equipment design sufficient to handle specified capacity;

(7) Facility construction plans;

(8) Washdown and control of wastewater;

(9) On-site drainage controls;

(10) Design and surfacing of on-site roadways;

(11) Operational safety and environmental monitoring procedures; and

(12) Housekeeping procedures such as litter, odor, dust and vector control.

3. Notwithstanding any other provision of this chapter, the following shall constitute the requirements for an emergency environmental and health impact statement for a transfer station meeting the exemption criteria in (e)1 above. An emergency environmental and health impact statement shall be in narrative form and must be approved prior to or concurrent with issuance of the certificate of authority to operate a transfer station. The environmental impact statement shall contain, at a minimum, the following:

i. A brief description of the land use of the area immediately surrounding the proposed facility;

ii. A description of possible environmental impacts on the immediately surrounding area and the facility design elements or other measures that will address them. This description shall address, at a minimum, the following environmental concerns:

(1) Noise;

(2) Air quality;

(3) Traffic;

(4) Stormwater and washdown drainage; and

(5) Any other concerns described in the solid waste disposal regulations, N.J.A.C. 7:26 which the Department determines should be discussed based upon the circumstances of the particular case, including time constraints.

4. The proposed owner or operator of the facility shall file copies of the applications for a certificate of authority to operate a transfer station, except for the disclosure statement, in the offices of the municipality and county in which the proposed facility is to be located on the same day such application is filed with the Department. The applicant shall also publish notice of the application, within five calendar days of filing the application, in a newspaper of general circulation in the municipality and county. After evaluating the emergent time constraints, the Department may require that the notice identify a public comment period and specify the address at which the Department will receive public comments.

(f) This subsection sets forth the specific criteria for exempting research, development and demonstration (RD&D) projects.

1. The Department shall issue a certificate of authority to operate an RD&D project provided the project is designed, constructed and operated in a manner consistent with environmental statutes applicable to the project, including, but not limited to, the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26-2C-1 et seq., and the rules adopted thereunder, and any permits or orders issued pursuant thereto. The project shall be constructed and operated in accordance with the specific conditions of the certificate of authority to operate.

2. A certificate of authority to operate shall be granted for an RD&D project which meets the following criteria for exemption:

i. The RD&D project consists of a new or innovative technology or a new or innovative operational process modification made to an existing solid waste facility or operation;

ii. The RD&D project is for a fixed period of time not to exceed one year, unless the RD&D applicant can demonstrate to the satisfaction of the Department that a longer time period is required to adequately assess long term environmental impacts and operational effects of the technology or process being evaluated. In no case shall the duration of the certificate extend beyond five years;

iii. The RD&D project will operate within the Department's standards for air emissions including noise and fugitive dust, water discharges to surface or ground waters and soil quality;

iv. The RD&D project has a design capacity of less than 100 tons per day of any waste or material, unless otherwise approved by the Department;

v. The RD&D project is consistent with any applicable Solid Waste Facility Performance Partnership Agreement established pursuant to N.J.A.C. 7:26-2.14 and is not deemed to be a material and significant alteration or addition to the existing facility as set forth at N.J.A.C. 7:26-2.6(a)4.

3. A certificate of authority to operate an RD&D project shall not be issued to a demonstrated technology or operation, to a project that would cause an exceedance of air emissions, water quality or soil standards or criteria or be deemed to cause an unacceptable risk to human health and the environment.

4. The RD&D project shall be determined to be consistent with the district solid waste management plan for the county or district within which the project is located or the Statewide Solid Waste Management Plan.

5. The owner and/or operator of a proposed RD&D project shall submit an application to the Department that includes:

i. The location of the RD&D project, including a site plan map;

ii. A description and process flow diagrams of the proposed project;

iii. The proposed duration of the project, including a start and end date;

iv. An outline of the need for the project;

v. A description of the information or improved operation that this project will provide and/or a description of the data gaps this project will fill;

vi. A description of the improved environmental effectiveness and/or the economic efficiency of the solid waste facility or operations that will be demonstrated;

vii. The operational procedures to minimize, control and mitigate impacts such as noise, air quality, traffic, and stormwater runoff;

viii. A description of the sampling and analytical plan of the material and process being demonstrated and the potential air, water or soil emissions or discharges;

ix. A description of the quality assurance/quality control plan for the overall demonstration and the sampling and analytical plan; and

x. A copy of the written approval issued by the designated plan implementation agency which indicates consistency with the district solid waste management plan for the county/district within which the project is located or as determined by the Department to be consistent with the Statewide Solid Waste Management Plan.

6. The Department may require additional information to establish a demonstration project in order to ensure that the proposed project will meet the requirements of (f)1 and 2 above.

7. The RD&D applicant shall submit semi-annual reports detailing the progress of the RD&D project. A final report addressing the specific goals for the project shall be submitted to the Department. The requirements for the semi-annual and final report shall be set forth in the conditions of the certificate of authority to operate.

8. The Department shall issue a certificate of authority to operate the RD&D project or deny the application for a certificate of authority to operate for an RD&D project, in writing to the applicant, within 90 days of receipt of a complete application.

9. The Department shall order the immediate termination of all operations at a RD&D project if it determines that the RD&D project is operating in contravention of the criteria set forth in (f)2 above, any applicable SWFPPA, or that termination is necessary to protect human health and the environment. The owner or operator of the RD&D project shall be provided the opportunity for a hearing on the termination within 20 days of issuance of the order to terminate.

10. At the end of the RD&D project and if the RD&D Certificate of Authority to Operate for a new or innovative technology or operation is not terminated as set forth in (f)9 above, the owner and/or operator of an RD&D project shall be required to obtain a SWF permit or a permit modification pursuant to N.J.A.C. 7:26-2, or a recycling approval pursuant to N.J.A.C. 7:26A-3, as applicable.

(g) This subsection sets forth the specific criteria for exempting beneficial use projects.

1. The Department shall issue a certificate of authority to operate for a beneficial use project, provided the project is designed and managed in a manner consistent with the environmental statutes applicable to the project, including, but not limited to, the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26-2C-1 et seq., and the rules adopted thereunder, and any permits or orders issued pursuant thereto. The project shall be developed and operated in accordance with the specific conditions of the certificate of authority to operate.

2. This subsection is not applicable to materials produced by a recycling center as approved pursuant to N.J.A.C. 7:26A. The materials produced at a permitted recycling center as regulated pursuant to N.J.A.C. 7:26A are deemed to be approved for beneficial use provided the recycled product is used or reused directly as a product or as a substitute for raw material that is incorporated into a product meets the generally accepted prod-

ucts specifications and standards for a similar manufactured product or raw material, and provided the recycled product poses no greater risk to human health or the environment than the use of the product or raw material it is replacing.

3. This subsection is not applicable to materials used or reused directly as a product or as a substitute for raw material which is incorporated into a product that meets the original product specifications, provided the material poses no greater risk to human health or the environment than the use of the product or raw material it is replacing.

4. The following materials are categorically approved for beneficial use and require no future approval or authorization for use or reuse provided they are used or reused in a manner consistent with N.J.A.C. 7:26-1.1:

- i. (Reserved);
- ii. Uncontaminated glass used as a substitute for conventional aggregate in asphalt or concrete applications;
- iii. Tire chips as aggregate for road base materials or asphalt pavements in accordance with New Jersey Department of Transportation standard specifications, or whole tires or tire chips when used for energy recovery;
- iv. Soils for on-site reuse that contain contaminants at levels below the most stringent site clean-up levels established by the Department for a specific site, except for sites located in the Pinelands Area;
- v. Contaminated soil that has been decontaminated to the satisfaction of the Department and is used or reused in a manner acceptable to the Department;
- vi. Nonhazardous solid waste approved in advance by the Department for use or reuse as cover material, landfill liner, cap material, or other landfill design and management components;
- vii. Coal combustion bottom ash used or reused as a component in the manufacture of roofing shingles or bituminous asphalt products;
- viii. Coal combustion fly ash or gas scrubbing by-products used or reused as an ingredient to produce light-weight block, light-weight aggregate, manufactured gypsum or manufactured calcium chloride;
- ix. Coal combustion fly ash or coal combustion bottom ash used or reused as a cement or aggregate substitute in structural concrete, structural concrete products, or a raw feedstock in the manufacture of cement or as a cement substitute for structural grade products, or subbase in roadway construction; or
- x. Coal combustion fly ash or coal combustion bottom ash used or reused to serve as an aggregate substitute in structural asphalt product.

5. The owner and/or operator of a new proposed beneficial use project shall submit an application to the Department that includes the following:

- i. A description of the beneficial use project including:
 - (1) The specific location of the site of origin of the material to be beneficially used, including a description of the location of the material at the site of origin;
 - (2) A general description of the site of origin of the material to be beneficially used, including its current use or activity and its historical uses and a discussion of the reasons for creating or excavating the material at the site of origin, the dates of material generation, and the process by which the material was generated;
 - (3) A description of any regulatory activity at the site of origin undertaken by the Department or any other agency;
 - (4) A description of any regulatory activity at the site of destination undertaken by the Department or any other agency; and
 - (5) The quantity of material for the beneficial use project;
- ii. A site location map where the material are to be used plotted on a USGS topographic map. The site plan map shall, at a minimum, indicate wetlands, tidal water limits, and the depth to the mean seasonal high ground water table across the entire site;
- iii. A site location map of the site of origin plotted on a USGS topographic map;
- iv. A description of the material, including a contaminant profile including, but not limited to, the following:
 - (1) An evaluation of the general quality of the material including a contaminant profile of the material in relation to current Department soil cleanup criteria (SCC) guidance levels and other standards as specified by the Department on a case-by-case basis, and in accordance with the sampling, quality assurance, analytical and other technical requirements of N.J.A.C. 7:26E, and/or other guidance as specified by the Department;
 - (2) A narrative description of the characteristics of the material and all sampling conducted in relation to the material. Material Safety Data Sheets (MSDS), all studies or analytical characterizations performed by any person on the material, and any other material specification information shall be included;

(3) Documentation of all contaminants and their concentrations of any such contaminants contained in the material in comparison to current Department SCC guidance levels, or as specified by the Department pursuant to (g)5iv(1) above, sampled and analyzed in accordance with N.J.A.C. 7:26E or as otherwise specified by the Department on a case-by-case basis, including field observations and all available field analytical data. The documentation shall include the results of all samples (screening, post-excavation, and waste pile/classification) collected during investigation of the area, excavation, or generation of the material including all historical analyses;

(4) The concentration limits for contaminants in the material during the proposed use or reuse and the rationale for those limits, and a description of the quality assurance procedures that will be used or reused to monitor material produced in the future for use or reuse;

(5) A scaled site map depicting all sample locations and the location of the proposed use or reuse of the material; and

(6) A determination of the waste classification of the material and the rationale used for that classification;

v. Copies of the analytical package (chain of custody, sampling methods, QA/QC data) used to evaluate the material;

vi. A description of any treatment undertaken prior to the use of the material;

vii. A description of the measures to be taken during handling and transportation of the material to minimize environmental and human health impacts; and

viii. The schedule for initiation and completion of the beneficial use project.

6. The Department may require additional information in order to ensure that the proposed beneficial use project will meet the requirements of (g)1 and 2 above.

7. The Department shall issue a certificate of authority to operate for a beneficial use project or deny the application for a certificate of authority to operate for a beneficial use project, in writing to the applicant, within 90 days of receipt of a complete application.

8. The owner and/or operator of a beneficial use project shall submit, on an annual basis, a report to the Department detailing the amount of material used, the date(s) of such use, the location(s) of the use, and any other information as required by the Department in the certificate of authority to operate.

9. The Department shall order an immediate termination of all operations at a beneficial use project if it determines that termination is necessary to protect human

health and the environment. The owner and/or operator of the beneficial use project shall be provided the opportunity for a hearing on the termination within 20 days of issuance of the order to terminate.

Amended by R.1982 d.433, effective December 6, 1982.

See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a).

Amended by R.1984 d.40, effective February 21, 1984.

See: 15 N.J.R. 2017(a), 16 N.J.R. 367(b).

“Variance” not readopted.

R.1984 d.174, effective April 25, 1984.

See: 16 N.J.R. 1100(a).

Filed as an emergency rule to expire June 24, 1984. Also proposed concurrently.

R.1984 d.399, effective August 17, 1984.

See: 16 N.J.R. 1100(a), 16 N.J.R. 1627(a), 16 N.J.R. 2367(a).

Readopted without change, Emergency R.1984 d.174.

Amended by R.1985 d.666, effective January 6, 1986.

See: 17 N.J.R. 1040(a), 18 N.J.R. 99(a).

(e) added.

Emergency Amendment and Concurrent Proposal, R.1987 d.231, effective April 30, 1987 (expires June 29, 1987).

See: 19 N.J.R. 886(a).

Subsection (f) added.

Readoption of Concurrent Proposal, R.1987 d.311, effective June 29, 1987.

See: 19 N.J.R. 1452(a).

Correction: “May” substituted for “shall” in (a) and (d)1; added text to (d) “This subsection sets forth the”.

See: 20 N.J.R. 2817(a).

Emergency Amendment, R.1988 d.547, effective October 26, 1988 (expires December 25, 1988).

See: 20 N.J.R. 2817(a).

Added (g).

Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.

See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).

Provisions of Emergency Amendment R.1988 d.547, readopted with a change in (g)4iv: added “emergency”.

Administrative change in (b)1.

See: 23 N.J.R. 3325(b).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (c)2, added reference to class of facilities; in (d)1, deleted one year limitation period reference relating to certificates; in (d)1i, substituted “Department” for “Commissioner”; deleted (e) and (g); recodified former (f) as (e); substantially amended (e); added new (f) and (g).

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

Sludge Management Plan exempted sludge-only thermal reduction facilities from permitting requirement of the Solid Waste Management Act. Terminal Const. Corp. v. Hoboken-Union City-Weehawken Sewerage Authority, 244 N.J.Super. 537, 582 A.2d 1288 (A.D.1990), certification denied 126 N.J. 323, 598 A.2d 883.

7:26-1.8 Exemption from registration—land application and sewage sludge operations

(a) The following class of solid waste operations is hereby exempted from registration as required under N.J.S.A. 13:1E-4 and N.J.A.C. 7:26.

1. Operations for the land application of non-hazardous solid waste (including wastewater and potable water treatment sludge) and storage facilities for such non-hazardous solid waste which receive:

i. A temporary emergency or final New Jersey Pollutant Discharge Elimination system (NJPDES) permit issued pursuant to N.J.A.C. 7:14A; and

ii. An approval of the assessment of the environmental impact of the proposed operation which may be included in the NJPDES permit.

(b) All sewage sludge management equipment and operations for which permits are obtained pursuant to N.J.A.C. 7:14A and/or 7:27, except operations involving the transportation of sewage sludge or the commingling of sewage sludge with municipal solid waste, are exempt from the registration requirements of N.J.S.A. 13:1E-4 and N.J.A.C. 7:26.

(c) Transporters of marketable residual product are exempt from the registration requirements of N.J.S.A. 13:1E-4 and N.J.A.C. 7:26.

New Rule, R.1986 d.162, effective May 5, 1986.

See: 17 N.J.R. 2945(a), 18 N.J.R. 982(a).

Old rule recodified to 7:26-1.9.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), amended N.J.A.C. reference; and added (b) and (c).

Case Notes

There is implied duty on part of Department of Environmental Protection, when deciding whether facility using sludge-derived products is exempt from permitting requirements, to give notice to affected municipalities and to consider their public health and safety concerns and zoning and land-use regulations, but there is no requirement of plenary or general public hearing. *Holgate Property Associates v. Township of Howell*, 145 N.J. 590, 679 A.2d 613 (1996).

7:26-1.9 Temporary exemption from solid waste facility permit modification procedures for permitted solid waste facilities

(a) General criteria for all exemptions are as follows:

1. Any exemption granted to a permitted solid waste facility pursuant to this section shall be consistent with the purpose and intent of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and

2. No exemption shall be granted for a significant modification which will pose a threat to public health or the environment.

(b) This subsection sets forth the specific criteria for temporarily exempting modifications to permitted solid waste facilities, which are not small-scale solid waste facilities as defined at N.J.A.C. 7:26-1.4 or are Class I sanitary landfill as defined at N.J.A.C. 7:26-1.4, from the solid waste permit modification procedures at N.J.A.C. 7:26-2.6.

1. A temporary permit modification approval shall be granted to a solid waste facility provided that:

i. The temporary permit modification approval shall not be issued for a period exceeding six months and may, in the Department's discretion, be extended for one additional consecutive six month period;

ii. Issuance of a temporary permit modification approval prior to the time that such modification to the solid waste facility permit can be issued pursuant to N.J.A.C. 7:26-2.6 is essential in order to ensure the viability of the facility to avoid a disruption in the provision of solid waste services. Such a disruption would be inconsistent with the purpose and intent of the Solid Waste Management Act and the District Solid Waste Management Plan;

iii. The modification to facility engineering design and/or operation shall be consistent with the protection of public health, safety and the environment under the circumstances. Notwithstanding any other requirement specified in Title 7 of the New Jersey Administrative Code, the facility engineering design and/or operational modification(s) to be implemented shall be those specified as conditions in the temporary permit modification approval;

iv. All preparatory work necessary to permit safe and environmentally sound operation of the facility can be accomplished prior to implementing the proposed modification(s) to the facility engineering design and/or its operations; and

v. A schedule has been established and incorporated into the temporary permit modification approval which provides for the formal processing of the request for facility modification of engineering design and/or operation in accordance with all requirements of N.J.A.C. 7:26-2.6. The schedule may call for accomplishing one or more milestones related to procedural requirements outlined at N.J.A.C. 7:26-2.6 after modification(s) of the facility engineering design and/or operation have been implemented.

2. Notwithstanding any other provision of this chapter, the facility permittee shall submit the following in an application for a temporary permit modification approval:

i. Amendments to the approved environmental and health impact statement (if applicable) or a complete and detailed description of changes in environmental impacts that will result from the proposed modification(s) in facility engineering design and/or operation and additional mitigation measures being or proposed to address such impacts. Traffic impacts shall be re-evaluated if the proposed modification results in an increase in waste acceptance;

ii. Amendments to the approved Operations and Maintenance Manual for the facility, that reflect changes made necessary due to the proposed modification(s) in facility engineering design and/or operation; and

iii. Amended engineering design(s) for the facility, reflecting changes proposed that are the result of the proposed modification(s) subject to review.

(c) The owner or operator of any solid waste facility exempted pursuant to this section shall comply with all conditions set forth in its temporary permit modification approval. Noncompliance with a temporary permit modification approval shall subject the holder to a penalty pursuant to N.J.S.A. 13:1E-9 and/or suspension or revocation of authority to implement engineering design and/or operational modification(s).

1. The owner or operator of a facility for which temporary approval has been revoked or suspended shall be afforded the opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., subsequent to the revocation or suspension. The request for a hearing shall be submitted to the Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Department of Environmental Protection, PO Box 402, Trenton, NJ 08625-0402.

2. The granting of a temporary permit modification approval shall not be interpreted as entitling the holder to a solid waste facility permit modification.

Emergency New Rule, R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).
See: 29 N.J.R. 4170(a).

Former section "Public access to information and requirements for Department determination of confidentiality" recodified as N.J.A.C. 7:26-1.12.

Adopted concurrent proposal, R.1997 d.510, effective October 31, 1997.
See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

7:26-1.10 Transfer station facility master performance permits

By June 16, 1997, every facility holding a transfer station master performance permit shall submit an application for a solid waste facility permit in accordance with the procedures set forth in N.J.A.C. 7:26-2.4 and 7:26-2B.

Repeal and New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Case Notes

No public hearing required prior to issuance of master performance permit. *Mount Olive Tp. v. Department of Environmental Protection*, 225 N.J.Super. 94, 541 A.2d 1089 (A.D.1988).

Department of Environmental Protection not estopped from denying public hearing before issuing master performance permit. *Mount Olive Tp. v. Department of Environmental Protection*, 225 N.J.Super. 94, 541 A.2d 1089 (A.D.1988).

Performance permit was properly issued although though permit differed from district solid waste management plan. *Mount Olive Tp. v. Department of Environmental Protection*, 225 N.J.Super. 94, 541 A.2d 1089 (A.D.1988).

Master performance permit was properly issued to solid waste transfer station. *Mount Olive Tp. v. Department of Environmental Protection*, 225 N.J.Super. 94, 541 A.2d 1089 (A.D.1988).

7:26-1.11 (Reserved)

Emergency recodification to N.J.A.C. 7:26-1.13 by R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).

See: 29 N.J.R. 4170(a).

Section was "Burden of Proof".

Adopted concurrent proposal, R.1997 d.510, effective October 31, 1997.
See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

7:26-1.12 Public access to information and requirements for Department determination of confidentiality

Any confidential information obtained or used in the administration of the State solid waste program, shall be treated in accordance with N.J.A.C. 7:26-17.

R.1982 d.97, effective April 5, 1982.

See: 13 N.J.R. 724(a), 14 N.J.R. 338(a).

Recodified by R.1986 d.162, effective May 5, 1986.

See: 17 N.J.R. 2945(a), 18 N.J.R. 982(a).

Recodified from 7:26-1.8.

Amended by R.1988 d.57, effective February 1, 1988.

See: 19 N.J.R. 1869(a), 20 N.J.R. 273(a).

Changed reference from 7:14A-11 to 7:26-17.

Administrative Correction.

See: 25 N.J.R. 4595(b).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substituted "solid waste program" for "hazardous waste program".

Emergency recodification from N.J.A.C. 7:26-1.9 by R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).

See: 29 N.J.R. 4170(a).

Former N.J.A.C. 7:26-1.12, "Exemption from SWF permitting—leaf composting facility—(leaf mulching only operations)", was repealed by R.1996 d.578, effective December 16, 1996.

Adopted concurrent proposal, R.1997 d.510, effective October 31, 1997.
See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

7:26-1.13 Burden of proof

(a) In an enforcement action, or on specific request of the Department, persons claiming that they qualify for any exclusion or exemption in N.J.A.C. 7:26 or that they are not otherwise subject to the rules in N.J.A.C. 7:26 shall demonstrate and appropriately document that they satisfy all terms of the law releasing them from the requirements of N.J.A.C. 7:26.

(b) In an enforcement action, or on specific request of the Department, persons claiming that a certain material is not a solid waste shall demonstrate and appropriately document that the material is not a solid waste.

(c) In an enforcement action, or on specific request of the Department, persons claiming that a certain material is conditionally exempt from N.J.A.C. 7:26 shall demonstrate and appropriately document that they satisfy all terms of the law that renders the material conditionally exempt from N.J.A.C. 7:26.

New Rule, R.1990 d.65, effective February 5, 1990.

See: 21 N.J.R. 3219(a), 22 N.J.R. 382(a).

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Recodified from 7:26-1.13 and amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added references to specific request of the Department throughout; and in (c), substituted "an approved alternative use" for "a legal disposition". Section was "Exemption from SWF permitting—leaf composting facilities (leaves only)".

Emergency recodification from N.J.A.C. 7:26-1.11 by R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).

See: 29 N.J.R. 4170(a).

Adopted concurrent proposal, R.1997 d.510, effective October 31, 1997.
See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

SUBCHAPTER 2. DISPOSAL

7:26-2.1 Scope and applicability

(a) This subchapter and N.J.A.C. 7:26-2A and 2B shall constitute the rules and regulations of the Department governing the disposal of nonhazardous solid waste unless specifically exempted by N.J.A.C. 7:26-1.1, 1.7, or 1.8.

(b) This subchapter does not apply to hazardous waste. See N.J.A.C. 7:26G. However, hazardous waste facilities and activities, both major and minor, are not exempt from the requirements of registration, approval and regulation under the Solid Waste Management Act except where expressly so provided. The principal rules pursuant to the Act, governing the registration and other aspects of the regulation of such facilities and activities, are set forth elsewhere in this chapter. See also other chapters of the New Jersey Administrative Code where applicable.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Original rule was "Dumps prohibited".

Amended by R.1987 d.534, effective December 21, 1987.

See: 19 N.J.R. 1035(a), 19 N.J.R. 2426(a).

Added text in (b) "However hazardous waste . . ."

Emergency Amendment, R.1988 d.547, effective October 26, 1988 (expires December 25, 1988).

See: 20 N.J.R. 2817(a).

Added sections 1.11 or 1.12 to (a).

Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.

See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).

Provisions of Emergency Amendment R.1988 d.547, readopted without change.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), amended N.J.A.C. references; and deleted (c).

Case Notes

Disposing of solid waste in landfills other than those designated by state waste flow was warranted revocation of operating certificate. Matter of Allegations of Violations by Fiore and Sons, 95 N.J.A.R.2d (EPE) 88.

Receiving and storing construction and demolition debris; operating solid waste facility without a permit. DEPE v. Zanetich, 94 N.J.A.R.2d (EPE) 138.

7:26-2.2 Construction

(a) These rules shall be liberally construed to permit the Department to discharge its statutory functions.

As amended, R.1984 d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

New (c) added, former (c)-(g) made (d)-(h). In (g), "the information supplied on its" was "status as listed on his". In (h), "June" was "July" and "or to declare it expired" added. (i) added.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Rule was "Registration".

7:26-2.3 Purpose

(a) This subchapter is promulgated for the following purposes:

1. To establish the procedure for obtaining and maintaining a solid waste facility permit;
2. To establish the submission requirements for an environmental and health impact statement (EHIS) for solid waste facilities;
3. To establish the general engineering design requirements for solid waste facilities; and
4. To establish the general operational requirements for solid waste facilities.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Rule was "Domestic refuse".

7:26-2.4 Application procedures for a solid waste facility permit

(a) Prior to preparing and submitting the application for a solid waste facility (SWF) permit, other than for facilities specified in (c) below, the applicant may schedule a pre-application conference with the Department to discuss the registration, environmental and health impact statement and engineering submission requirements and the review procedures. At least two weeks prior to the scheduled pre-application conference, the applicant should submit information in the form of reports, maps, studies and other relevant project documentation providing a sufficient basis for review by the Department. The material submitted prior to the pre-application conference may include the following:

1. A site location map plotted on a USGS topographic map;
2. A written description of the type of facility;
3. A written estimate of the proposed design capacity of the facility;
4. A written description of the type of waste to be handled;
5. A written plan establishing the tentative construction schedules;

6. A written scope-of-work outlining the proposed EHIS, geotechnical investigation or engineering design;

7. Written documentation that the facility is included in the solid waste management plan pursuant to N.J.S.A. 13:1E-23 or that an application has been submitted to the appropriate public authority seeking inclusion in the solid waste management plan.

(b) A complete application for a SWF permit, except for applications for small-scale facilities identified in (c)1 and 2 below, shall include the following:

1. All fees, required by N.J.A.C. 7:26-4, owed and paid in accordance with N.J.S.A. 13:1D-120 et seq.;

2. Documentation establishing that the facility has been included in the applicable district solid waste management plan;

3. The disclosure statement described in N.J.A.C. 7:26-16. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d);

4. A registration statement meeting the requirements of N.J.A.C. 7:26-2.8;

5. An EHIS prepared in accordance with N.J.A.C. 7:26-2.9;

6. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10;

7. For sanitary landfills, a closure plan prepared and submitted in accordance with N.J.A.C. 7:26-2A.9; and

8. All applications for a SWF permit shall be submitted to:

Assistant Director for Engineering
Division of Solid and Hazardous Waste
Department of Environmental Protection
PO Box 414
Trenton, N.J. 08625-0414

(c) A complete application for a SWF permit for a small-scale solid waste facility as identified in (c)1 or 2 below, shall include the following:

1. For a small-scale thermal destruction facility:

i. Documentation and information sufficient to demonstrate, to the satisfaction of the Department, that the facility meets the following criteria:

(1) The waste intended for thermal destruction is nonhazardous;

(2) The waste is generated at the site of the thermal destruction operation, at other associated intracompany plants located within the State of New Jersey, or is regulated medical waste received by the

onsite small-scale incinerator in conformance with the requirements of N.J.A.C. 7:26-3A;

(3) The small-scale thermal destruction unit has a design capacity of less than 800 pounds per hour (9.6 tons per day);

(4) The facility has been included in the applicable solid waste management plan; and

(5) The thermal destruction unit will be operated in compliance with N.J.A.C. 7:26-2.11 and all other applicable Departmental regulations.

ii. A registration statement meeting the requirements of N.J.A.C. 7:26-2.8;

iii. An EHIS sufficient to meet only the requirements set forth at N.J.A.C. 7:26-2.9 (d)1;

iv. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10;

v. The disclosure statement described in N.J.A.C. 7:26-16. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d); and

vi. This exemption from full application requirements is limited to one small-scale thermal destruction unit for each company site.

2. For a small-scale materials recovery facility or transfer station:

i. Documentation sufficient to demonstrate, to the satisfaction of the Department, that the capacity of the facility is less than 100 tons per day;

ii. A registration statement meeting the requirements of N.J.A.C. 7:26-2.8;

iii. An EHIS sufficient to meet only the requirements set forth at N.J.A.C. 7:26-2.9 (d)2;

iv. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10;

v. Documentation that the facility has been included in the applicable solid waste management plan; and

vi. The disclosure statement described in N.J.A.C. 7:26-16. The requirement of a disclosure statement shall not apply to any person specifically exempted as set forth at N.J.A.C. 7:26-16.3(d).

(d) Upon receipt of the initial application materials, the Department shall assign an application number to the application. All correspondence on written comments relating to the application shall thereafter refer to the assigned application number.

(e) All applications shall be signed by the applicant as follows:

1. The completed registration statement shall be signed as follows:

i. For a corporation, by a principal executive officer of at least the level of vice president;

ii. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

iii. For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official.

2. All engineering designs and reports and the environmental and health impact statement required by this subchapter and other information requested as "Addendums" by the Department pursuant to (f) and (g)4 below, in addition to the documents required to be submitted pursuant to N.J.A.C. 7:26-2.9 and 2.10, shall be signed by a person described in (e)1 above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

i. The authorization is made in writing by a person described in (e)1 above;

ii. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, or positions of equivalent responsibility (a duly authorized representative may be either a named individual or any individual occupying the named position); and

iii. The written authorization is submitted to the Department.

3. Any person signing the registration statement, engineering design and reports, environmental and health impact statement or addendum mentioned in (e)1 and 2 above, shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I understand that, in addition to criminal penalties, I may be liable for a civil administrative penalty pursuant to N.J.A.C. 7:26-5 and that submitting false information may be grounds for denial, revocation or termination of any solid waste facility permit or vehicle registration for which I may be seeking approval or now hold."

(f) The Department may require an applicant to provide additional data, reports, specifications, plans or other information where such information is necessary, as determined by the Department, to make the application technically complete prior to the tentative decision or to make a final permit determination after the public hearing. The Department shall not make a tentative or final determination on any application until such time as the applicant has supplied the requested information. Any failure to submit such information shall constitute cause for denial of the permit.

(g) The procedures for Department review and tentative approval or denial of a SWF permit application shall be in accordance with the following:

1. The Department shall not begin the processing of an application until the applicant has fully complied with the submission requirements of this subchapter and the signature and certification requirements of (e) above unless the applicant is unable to comply with the submission requirements through the actions or inactions of another Federal, State, county or local agency.

2. Upon receipt of a SWF permit application, the Department shall review the application to determine whether the application is complete. After reviewing the SWF permit application, the Department shall, within 30 days of receipt of the application, notify the applicant, in writing, whether the application is complete or incomplete.

i. For the purposes of this section, "complete application" means that all information required by N.J.A.C. 7:26-2.4(b) has been submitted by the applicant.

3. If the application is deemed incomplete, the Department shall provide the applicant with a written list of the deficiencies and additional information required to make the application complete. A determination of incompleteness shall stop any review and shall stay the time limitations set forth in (g)11 below.

4. Within 30 days of receiving a notice of deficiency, the requested additional information shall be submitted to the Department as an "Addendum to the Application for a Solid Waste Facility Permit" ("Addendum"). The Department, in its discretion, may extend the timeframe for submitting additional information. Failure to correct the deficiency(ies) shall constitute cause for denial of the permit without prejudice.

5. Upon receiving the Addendum, the Department shall review the Addendum and other information supplied by the applicant for a determination of completeness in accordance with the procedure set forth in (g)2 above.

6. Upon determining that the application or Addendum is complete, the Department shall send notice that an application or Addendum has been filed identifying the applicant, describing the type of facility, location of the facility and locations where and when application materials are available for review to the following:

i. The mayor, planning board, environmental commission and the health officer of any municipality in which any portion of the facility is proposed to be located;

ii. The mayor, planning board, environmental commission and health officer of any municipality the borders of which lie within one mile of the perimeter of the proposed facility; and

iii. The implementing agency for the solid waste management plan of any solid waste management district in which any portion of the facility is proposed to be located;

7. Upon determining that an application or Addendum is complete, the Department shall submit a copy of the SWF permit application materials to the following for review:

i. The municipal clerk of any municipality in which any portion of the facility is proposed to be located;

ii. The County Clerk of any county in which any portion of the facility is proposed to be located; and

iii. Any other governmental agencies that the Department deems appropriate, such as Federal and State agencies with jurisdiction over fish, shellfish and wildlife resources, surface and groundwater resources, air quality, and coastal zone management; the Pinelands Commission; Office of New Jersey Heritage; Department of Agriculture; Department of Transportation; Department of Community Affairs; and other affected states.

8. Once the Department determines that an application or Addendum is complete, the application or Addendum may be reviewed by any interested person at the Department's offices during normal working hours by making an appointment, at the address specified at N.J.A.C. 7:26-2.4(b)8, with the records custodian of the Division of Solid and Hazardous Waste. Copies may be obtained directly from the applicant or from the Department upon payment of the duplication fee prescribed by law.

9. The Department shall determine whether a site visit and inspection are necessary in order to evaluate the proposed site of the facility. If the Department decides that a site visit is necessary for any reason in conjunction with the processing of an application, the applicant shall be notified and a date for the visit shall be scheduled.

10. The Department shall publish notice in the DEP Bulletin of the receipt of each new application, and each significant agency action on an application currently before it. Notice shall be given for significant actions including, but not limited to, the determination of completeness, tentative approval, rejection of an application, public hearings on a tentative approval, final decision on a permit, transfer of a permit and permit renewal. Publication of notice in the DEP Bulletin constitutes constructive notice to all interested persons of the Department actions on SWF permits. The notice shall include, but not be limited to:

- i. The applicant's name;
- ii. The agency application number;
- iii. The type of facility proposed by the applicant;
- iv. The location of the proposed facility;

v. The date and description of significant agency action on the application;

vi. The locations where and when application materials are available for review; and

vii. A statement that comments concerning the pending permit action may be submitted to the Department at the address specified in N.J.A.C. 7:26-2.4(b)8.

11. Not later than six months after the date upon the Department's letter notifying the applicant that the application is complete pursuant to (g)6 above, except in the case set forth in (g)3 above, the Department shall reject the SWF permit application, without prejudice, as technically incomplete, or deny or grant tentative approval of the application.

i. The Department shall perform a technical review of a complete application in accordance with the following timeframes:

(1) The Department shall complete its initial technical review of the application within 120 days from the determination that the application is complete;

(2) If the application is deemed technically incomplete, the Department shall provide the applicant with an opportunity to correct the deficiency or deficiencies pursuant to (g)3, 4 and 5 above;

(3) Upon receiving the Addendum submitted pursuant to (g)11i(2) above, the Department shall complete its technical review of the application within 60 days from the determination that the Addendum is complete;

ii. If the Department decides to deny the applicant a SWF permit, the basis for the denial shall be set forth in a letter to the applicant which shall also provide the applicant with notice of opportunity to request an adjudicatory hearing pursuant to (g)22 below.

iii. Where an applicant can demonstrate compelling reasons, the Department shall extend the deadlines set forth at (g)11 above and suspend its consideration of a complete application.

12. A tentative approval shall establish draft design, construction, operational, and maintenance conditions for the proposed solid waste disposal facility, requirements for the monitoring thereof and any other conditions required under Federal or State laws or rules and regulations as deemed appropriate by the Department.

13. Not later than 45 days after the granting of a tentative approval of an application for a SWF permit, the Department shall conduct a public hearing on the proposed facility and operator in accordance with the procedures set forth in N.J.A.C. 7:26-2.5. In the case of an application for a solid waste facility described in N.J.A.C. 7:26-2.4(c), an application to modify permit conditions or to revoke and reissue a permit pursuant to N.J.A.C.

7:26-2.6, an application for a permit renewal pursuant to N.J.A.C. 7:26-2.7(b), an application to transfer a permit pursuant to N.J.A.C. 7:26-2.7(d), the Department shall provide public notice, in accordance with (g)15 below, of the opportunity for a public hearing on the proposed agency action. Upon the written request of any interested party which, in the opinion of the Department, raises significant issues of fact relevant to the proposed agency action within 30 days of the newspaper publication of a notice of opportunity for a hearing, a public hearing on the proposed agency action shall be held in accordance with N.J.A.C. 7:26-2.5.

14. Not less than 15 or more than 30 days before a public hearing the Department shall provide notice, as described in (g)15 below, of the tentative approval and scheduled hearing, by the following methods:

i. By mailing a copy of a notice to the following persons (any person entitled to receive notice under this paragraph may waive the right to receive notice for any classes and categories of permits);

- (1) The applicant;
- (2) The municipality in which the proposed facility will be located;
- (3) Any Federal, State, county or municipal agency known to the Department to have issued or have jurisdiction to issue a permit for the same facility or activity;
- (4) Any Federal, State, county or municipal agency which commented on the application and requested notice;
- (5) Any other persons required by law, statute, regulation or court order to receive such notice; and
- (6) Any interested person requesting such notice.

ii. By publication of a notice in two newspapers of **general circulation** within the area affected by or served by the facility or activity; and

iii. In cases where the Department is providing notice of the opportunity for a public hearing, such notice shall be provided in accordance with (g)17i and ii below. Where the notice of opportunity for a public hearing results in the scheduling of a hearing, a subsequent notice of the hearing date shall be provided in accordance with (g)17i and ii below.

15. All public notices issued pursuant to this section shall include the following information;

- i. Name and address of the office processing the tentative approval for which notice is being given;
- ii. Name and address of the applicant, and if different, the address of the facility or activity described by the SWF permit application materials;

iii. A brief description of the business to be conducted at the facility, including the activities described in the SWF permit application materials;

iv. Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the fact sheet required by (g)16 below;

v. A brief description of the comment procedures by which the public may participate in the final permit decision and the time and place of the public hearing, if necessary; and

vi. The location of the administrative record, the times at which the record will be open for public inspection and a statement that all data submitted by the applicant is available as part of the administrative record.

16. A fact sheet concerning the proposed facility shall be prepared by the Department and shall be provided with the hearing notice required in (g)15 above. The fact sheet shall include the following:

- i. The principal facts and the significant factual, legal, methodological or policy questions considered in granting the tentative approval;
- ii. A description of the proposed facility;
- iii. The types and quantities of solid waste which may be disposed of at the proposed facility; and
- iv. A brief summary of the impacts and bases for the conditions of the tentative approval.

17. The public comment period shall be determined by the Department in accordance with the following:

- i. The public comment period shall be the opportunity for any interested person to submit comments to the Department concerning a proposed facility and operator;
- ii. For purposes of this subchapter the public comment period shall begin upon notice by the Department that a tentative approval has been issued or other agency action taken;
- iii. The public comment period shall close 15 days after the date of the last public hearing, if any, on any tentative approval, unless the Department decides to extend the comment period in accordance with (g)17v below or reopen the comment period in accordance with (g)18 below. For agency actions on which no public hearing is held, the public comment period shall close 30 days after publication of the notice of the agency action;

iv. All interested persons, including the applicant, who believe any aspect of the tentative approval or other agency action is inappropriate shall raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations or other generally available reference materials;

v. A public comment period longer than 15 days following the public hearing may be necessary, in certain cases, to give interested persons an opportunity to comply with the requirements of (g)17iv above. Any interested person who reasonably requires additional time within which to supplement the administrative record should request, in writing, an extension of the public comment period, and the Department shall exercise reasonable discretion in setting the closing date for public comment;

vi. The Department shall publish notice, in accordance with (g)14 above of any decision to extend the period for public comment beyond the 15 days following the public hearing. Any notice of an extension of the public comment period shall clearly set forth the closing date of such extension.

18. Reopening of the public comment period shall be at the Department's discretion based upon the following:

i. If any data, information or arguments submitted during the public comment period appear to raise substantial new questions concerning a tentative approval or other agency action, the Department may take one or more of the following actions:

(1) Issue a permit, appropriately modifying the tentative approval to reflect the Department's response to the questions raised;

(2) Prepare a revised fact sheet and revised tentative approval and reopen the comment period under this section; or

(3) Reopen the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

ii. Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening;

iii. Public notice of any of the above actions shall be published in accordance with (g)14 above. Any notice issued pursuant to this section shall clearly define the scope of the reopening for purposes of limiting the scope of comments submitted during the reopened period pursuant to (g)18ii above.

19. The Department shall base the final permit decision on the administrative record, which shall be complete on the date the SWF permit is issued and which shall include, but not be limited to:

i. The application, including the registration statement, engineering design, EHIS, Addendums, if any, and all other additional materials submitted by the applicant in support of the application;

ii. All written comments received during the public comment period, including any comments submitted during an extension or reopening of the comment period;

iii. The transcript of any public hearing held on the permit application;

iv. The hearing officer's report which shall contain the Department's response to comments made during the comment period;

v. The fact sheet prepared by the Department for any public hearing and other documents contained in the supporting file;

vi. The tentative approval and final permit documents; and

vii. Material readily available to the Department, or published material which is generally available, need not be physically in the same file as the rest of the administrative record as long as it is specifically referred to in the fact sheet, the written comments, the transcript, or in the response to comments.

20. The provisions of this subchapter shall not supersede the public hearing procedures required for facilities obtaining any other permit issued by the Department. The public notice and public comment provisions contained in the applicable regulations or statutes shall govern those permit procedures.

21. The Department shall notify the applicant of the permit application decision by issuance of a SWF permit or by letter of denial on the application. In addition, the SWF permit or letter of denial shall be made available to all parties receiving copies of the application or notice of the application pursuant to (g)6 and 7 above and to any other interested person who has commented, orally or in writing, on the application, tentative approval or other agency action. Notice of the decision shall be published in the DEP Bulletin.

22. Within 20 calendar days of receipt of the Department's decision, the applicant may submit a written request to the Department for an adjudicatory hearing to contest any aspect of the Department's decision.

i. Any request for an adjudicatory hearing must be based on specific relevant issues raised by the applicant during the public comment period;

ii. Any request raising new issues shall be considered by the Department as a request to reopen the public comment period pursuant to (g)18 above;

iii. The Department may base a denial of a request for an adjudicatory hearing on the failure of the applicant to have raised the issue during the public comment period;

iv. The request for an adjudicatory hearing shall state the applicant's factual position on each question alleged to be at issue, its relevance to the permit decision, specific reference to contested permit conditions as well as suggested revised or alternative permit conditions and an estimate of the amount of hearing time necessary to adjudicate each factual issue. Supporting documentation shall be identified in the administrative record and shall be properly referenced; and

v. The request for a hearing shall be sent to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, PO Box 402, Trenton, New Jersey 08625-0402.

23. The Department may extend the time allowed for submitting a hearing request under this section for good cause shown.

24. For 30 days following receipt of a request for an adjudicatory hearing, the Department may attempt to settle the dispute by conducting such proceedings, meetings, and conferences as it deems appropriate.

25. If Department efforts at settlement fail, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(c).

Rule was "Submission of engineering designs".

Emergency Amendment, R.1988 d.547, effective October 26, 1988 (expires December 25, 1988).

See: 20 N.J.R. 2817(a).

(c)1 added text "Unless otherwise exempted by N.J.A.C. 7:26-1.7(g)1.11 or 1.12" and "vegetative waste".

Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.

See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).

Provisions of Emergency Amendment R.1988 d.547, readopted without change.

Administrative change in (f)22iii.-v.

See: 23 N.J.R. 3325(b).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended section.

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

Solid waste disposal facility could not require review of application for solid waste facility permit. *Regional Recycling, Inc. v. State, Dept. of Environmental Protection*, 256 N.J.Super. 94, 606 A.2d 817 (A.D. 1991), affirmed 127 N.J. 568, 606 A.2d 815.

Amendment to solid waste management plan which eliminated landfill from plan was invalid. *Waste Disposal, Inc. v. Monmouth County Bd. of Chosen Freeholders*, 254 N.J.Super. 205, 603 A.2d 145 (L.1991).

Modification procedures provided by regulations promulgated under Solid Waste Management Act constituted sufficient safeguards and adequately protected public interest. *Matter of Pennsauken Solid Waste Management Authority*, 238 N.J.Super. 233, 569 A.2d 826 (A.D.1990).

Proposed sludge management facility was "facility" within meaning of the Solid Waste Management Act; sewage sludge to be handled by facility was "solid waste" within meaning of the Act; the Act preempted local zoning and planning regulations. *Ocean County Utilities Auth. v. Planning Bd. of Berkeley Twp., Ocean Co.*, 221 N.J.Super. 621, 535 A.2d 550 (Law Div.1987) affirmed 223 N.J.Super. 461, 538 A.2d 1307.

Requirements for submission of sanitary landfill engineering design; statute and regulations preempt municipal zoning ordinance as to landfill access road construction. *Chester Twp. v. Dept. of Environmental Protection*, 181 N.J.Super. 445, 438 A.2d 334 (App.Div.1981).

Operation of solid waste facilities and hauling solid waste without required approvals; solid waste permits denied. *Mitchell Environmental, Inc. v. DEPE*, 94 N.J.A.R.2d (EPE) 210.

7:26-2.5 Public hearing procedures

(a) The Department shall be responsible for scheduling and conducting a public hearing in reasonable proximity to the location of the proposed facility.

(b) The Department shall designate a hearing officer who shall exercise reasonable discretion in the conduct of the hearing and shall encourage general discussion of the proposed facility, including public comment on the proposed operation, tentative approval or other action to be taken by the Department.

(c) The public hearing shall be a non-adversarial hearing at which any interested person may submit oral or written statements and data concerning the proposed operation, tentative approval or other agency action.

(d) The Department may make a presentation at the public hearing, describing the proposed facility and explaining the basis for the issuance of the tentative approval or other proposed action.

(e) The applicant shall appear at the public hearing on a tentative approval and be available to answer questions regarding the proposed facility. Failure of an applicant to appear and answer relevant questions at the public hearing may result in revocation of the tentative approval and denial of the application. The applicant may make a presentation at the public hearing, describing the proposed facility.

(f) The public hearing proceedings shall be transcribed or recorded and the transcript shall be part of the administrative record.

(g) The hearing officer, to the extent feasible, shall conduct the hearing in the following manner:

1. All interested persons shall be afforded the opportunity to appear and comment at the hearing;
2. Time shall be allotted for individuals to present comments where necessary to accommodate those present and to limit repetition;
3. Testimony on irrelevant matters shall be excluded; and
4. The hearing officer shall ensure that the hearing proceeds in an orderly fashion.

(h) To help ensure that relevant questions are answered at the public hearing, such questions may be submitted to the Department no later than five days prior to the public hearing. At the time of the hearing, the Department or the applicant, in the Department's discretion, will make every reasonable effort to answer these questions and other relevant questions received at the hearing.

(i) (Reserved)

(j) In the event that a response to a question cannot be given at the hearing, a written response shall be prepared after the hearing by either the Department or the applicant, at the Department's discretion. A copy of that written response shall be included in the hearing officer's report and shall be provided to the individual asking the question and others requesting copies of the hearing officer's report.

(k) The cost of advertisement and other expenses of the public hearing, including provision and preparation of the transcript, will be certified to the applicant who shall pay the bill within 30 days thereafter. Payment of the bill, in full, shall be a condition of final permit issuance.

As amended, R.1974 d.234, effective August 21, 1984.

See: 6 N.J.R. 343(c).

As amended, R.1975 d.190, effective June 27, 1975.

See: 7 N.J.R. 360(b).

As amended, R.1976 d.303, effective November 1, 1976.

See: 8 N.J.R. 374(d), 8 N.J.R. 590(a).

As amended, R.1984 d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

(v): Copies of analyses formerly forwarded to the Bureau.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(e).

Repealed Sanitary landfill operational requirements (General).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Case Notes

Amendment to solid waste management plan which eliminated landfill from plan invalid. *Waste Disposal, Inc. v. Monmouth County Bd. of Chosen Freeholders*, 254 N.J.Super. 205, 603 A.2d 145 (L.1991).

DEP complied with all Federal and State statutory and regulatory provisions in issuance of Air Pollution Control Permit and Solid Waste Permit to applicant. In the Matter of NJPDES Permit No. N.J. 0055247, et al., 216 N.J.Super. 1, 522 A.2d 1002 (App.Div.1987) certification denied 108 N.J. 185, 527 A.2d 1390 (1987).

7:26-2.6 Procedures and grounds for modification, revocation and reissuance and termination of SWF permits

(a) When the Department receives any information concerning a solid waste facility, it may determine whether or not one or more of the causes listed at (a)4 below for modification or revocation and reissuance exist.

1. If cause exists, the Department may modify, or revoke and reissue the SWF permit, subject to the limitations of this section, and may require the SWF permittee to submit an updated or new application in accordance with (e) below, if appropriate. When a permit is modified, only the SWF permit conditions subject to modification may be reopened for public comment. If a permit is revoked and reissued, the entire permit shall be reopened for public comment and the permit shall be reissued for a new term.

2. If a cause does not exist under this subsection or (c) below, the Department shall not modify or revoke and reissue the permit. The Department shall notify the person submitting the request that cause does not exist for a permit condition modification or a revocation and reissuance of the permit.

3. If a permit modification satisfies the criteria in (d) below for a minor modification, the permit may be modified without issuance of a tentative approval or public comment thereon. Otherwise, a tentative approval of the modified SWF permit conditions or of the revoked and reissued SWF permit shall be prepared pursuant to (e) below and the procedures in N.J.A.C. 7:26-2.4 (g) 11 through 25 followed.

4. The following may be cause for modification of permit conditions or revocation and reissuance of the SWF permit at the discretion of the Department.

i. There are material and significant alterations or additions to the permitted facility or operation which occurred after permit issuance which justify the application of permit conditions that are different from or absent in the existing permit. For the purpose of this subchapter, a material and significant alteration or addition is defined as:

(1) A major alteration to or addition of a new structure to the facility, which is not deemed to be a minor modification as set forth at (d) below and which would result in a significant change in the approved environmental impacts of the facility;

(2) An increase in the approved capacity of the facility which would result in a significant change in the approved environmental impacts of the facility; and

(3) A major alteration in the operations of the facility which would result in a significant change in the approved environmental impacts of the facility;

ii. The Department has received information that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of issuance. This shall include any information indicating that the effects on the environment are unacceptable or that the facility is being operated in an environmentally unsound manner;

iii. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by a judicial decision after the permit was issued. Permits may be modified for this cause only as follows:

(1) For promulgation of amended standards or regulations, when the permit condition to be modified was based on a requirement of N.J.A.C. 7:26, and the Department has revised, repealed or modified that portion of the regulation on which the permit condition was based; and

(2) For judicial decisions, a court of competent jurisdiction has remanded and stayed a Department regulation or guideline, if the remand and stay concerned that portion of the regulation or guideline on which the permit condition was based and a request is filed by the permittee.

5. The Department shall follow the applicable procedures in (e) below while pursuing a modification or revocation and reissuance of any permit under this section.

(b) The Department may modify or, alternatively, revoke and reissue a permit if cause exists for termination under (c) below and the Department determines that modification or revocation and reissuance is appropriate.

(c) When the Department receives any information concerning a facility, it may determine whether or not one or more of the causes listed below for termination of the permit exist and shall proceed as set forth below.

1. The following are causes for terminating a permit during its term or for denying a permit renewal application.

i. Noncompliance with any condition of the permit;

ii. The permittee's failure in the application, during the permit issuance process or at any subsequent time during the permitted operations of the facility to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time, including a material and significant alteration or addition to the permitted facility;

iii. A determination by the Department that the facility is being operated in an environmentally unsound manner;

iv. A determination that the permitted activity endangers human health or the environment, or has the potential to do so, and can only be regulated to acceptable levels by permit modification or termination; or

v. A change in ownership or operational control of a permitted facility not in compliance with N.J.A.C. 7:26-2.7(e);

2. The Department shall follow the applicable procedures in (e) below in terminating any permit under this section.

(d) Upon the request of the permittee, an interested party or for good cause, the Department may make certain minor modifications to a permit without issuing a tentative approval, providing public notice thereof or holding a public hearing thereon.

1. Minor modifications to the permit shall be made to accomplish only the following:

i. Require more frequent monitoring or reporting by the permittee;

ii. Change an interim compliance date in a schedule of compliance, provided the new date does not interfere with attainment of the final compliance date requirement;

iii. Change a compliance schedule when the cause of the required change is an event over which the permittee has little or no control, such as a flood, strike or material shortage, or another event for which the permittee has no reasonable available remedy;

iv. Delete types of solid waste being accepted for handling, processing or storage at the facility or include types which are similar in nature to those included in the permit at the time of issuance without increasing the design capacity of the facility;

v. Change the testing methods or procedures in the permit as a result of changes to standardized methods or procedures;

vi. Revisions as necessary to conform to a decision by the Department rendered after an adjudicatory hearing or any settlement of the issues for which an adjudicatory hearing has been requested, pursuant to N.J.A.C. 7:26-2.4(g);

(1) After settlement of the issues for which an adjudicatory hearing had been requested, those persons who commented on the tentative approval shall receive notice of any revised permit conditions; or

vii. Changes in the design or operation of the facility which, in the best engineering judgement of the Department, will upgrade or cause no change in the environmental performance or reduce adverse environmental or human health impacts and/or are consistent with any applicable solid waste facility performance partnership agreement pursuant to N.J.A.C. 7:26-2.14.

2. A minor modification shall be effective within 60 days from the receipt by the Department of the request submitted pursuant to (d)1 above. In the event that the Department determines, based on the information submitted, that a modification of permit conditions or the revocation and reissuance of the permit pursuant to (a)3 above is warranted, the Department shall notify the permittee within 60 days of the receipt of the request. In the event that the Department fails to take action on a request for a minor modification within 60 days, the minor modification shall be deemed effective.

(e) Permits may be modified, revoked and reissued, or terminated either upon written request of the permittee, or upon the Department's initiative. The request shall set forth the relevant factors and rationale supporting the request. Upon receipt of any request, the Department shall follow the procedures set forth below:

1. Within 30 days of receipt of a request to modify or revoke and reissue, or terminate a permit, the Department shall review the request and determine whether the grounds exist for modification, revocation and reissuance or termination.

i. If the Department determines that grounds exist for modification, revocation and reissuance or termination consistent with (a)4, (b) or (c) above, it shall notify the permittee and, if necessary, require the permittee to submit information, including, but not limited to, a new or updated application.

ii. If the Department determines that grounds do not exist for modification, revocation and reissuance or termination, the Department shall notify the requesting party.

2. If a new or updated application is required, the Department shall follow the procedures for review and tentative approval outlined at N.J.A.C. 7:26-2.4(g).

3. If a new or updated application is not required, the Department shall, within 60 days of determining that a request is complete, deny or prepare a tentative approval incorporating the proposed change pursuant to N.J.A.C. 7:26-2.4(g)12.

4. In a permit modification only those conditions to be modified shall be reopened for public comment in accordance with the procedures set forth at N.J.A.C. 7:26-2.4(g)13 through 25. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit.

5. During any modification proceeding, the permittee shall, at a minimum, comply with all conditions of the existing permit and such interim conditions as the Department may impose to protect human health and the environment until the modification proceedings are completed.

6. When a permit is revoked and reissued, the entire permit shall be reopened in accordance with the procedures set forth at N.J.A.C. 7:26-2.4. During any revocation and reissuance proceeding, the permittee shall, at a minimum, comply with all conditions of the existing permit and such interim conditions as the Department may impose to protect human health and the environment until a new final permit is issued; or

7. Minor modifications as defined in (d) above are not subject to the requirements of this subsection.

8. If the Department tentatively decides to terminate a permit under (c) above, it shall issue a notice of intent to terminate. The notice of intent to terminate shall be processed in accordance with the same procedures as a tentative approval pursuant to N.J.A.C. 7:26-2.4(g)11 through 25.

As amended, R.1975 d.66, effective March 14, 1975.

See: 7 N.J.R. 149(b).

As amended, R.1975 d.271, effective September 15, 1975.

See: 7 N.J.R. 463(b).

As amended, R.1978 d.72, effective February 27, 1978.

See: 9 N.J.R. 459(d), 10 N.J.R. 146(a).

As amended, R.1983 d.570, effective December 5, 1983.

See: 15 N.J.R. 660(a), 15 N.J.R. 2040(b).

(e) deleted.

Amended by R.1985 d.65, effective February 19, 1985.

See: 16 N.J.R. 440(a), 17 N.J.R. 446(c).

(e) added.

Amended by R.1986 d.388, effective September 22, 1986.

See: 17 N.J.R. 2719(a), 18 N.J.R. 1932(a).

(e)2i and ii deleted; new (e)2i through vi added and new (e)5 added.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Repealed subsection (a)-(d) of "Sanitary landfill operational requirements (Specified)" and recodified subsection (e) to 7:26-2A.8(l).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended section.

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

Modification procedures provided by regulations promulgated under Solid Waste Management Act constituted sufficient safeguards and adequately protected public interest. Matter of Pennsauken Solid Waste Management Authority, 238 N.J.Super. 233, 569 A.2d 826 (A.D.1990).

Determination that Thermal De-NO_x control technology for removal of nitrogen oxide emissions satisfied "advances in art" standard Act and issuance of air pollution control permit was not unreasonable administrative action. Matter of Pennsauken Solid Waste Management Authority, 238 N.J.Super. 233, 569 A.2d 826 (A.D.1990).

Solid waste collector and transfer station operator seeking to make improvements to facility; application for SWF permit modification. Vincent M. Ippolito v. Tenafly Board of Adjustment, 95 N.J.A.R.2d (EPE) 17.

Revocation of solid waste license; res judicata doctrine. DEPE v. Carmine Franco and Company, Inc., 94 N.J.A.R.2d (EPE) 128.

7:26-2.7 Duration of the permit; permit renewal requirements; continuation of an expiring permit and transfer of an existing permit

(a) A permit issued pursuant to this subchapter shall be effective for a fixed term not to exceed five years except as provided in (c) and (d) below or N.J.A.C. 7:26-2.14. A permit may be renewed in accordance with (b) below only for the duration of the facility's inclusion in the District Solid Waste Management Plan and provided the permitted capacity, as specified in the approved engineering design, is not exceeded.

1. The term of a permit shall not be extended by modification beyond the maximum duration specified in this section.

2. Nothing herein shall be construed to allow the permittee to exceed the maximum permitted capacity of the facility as set forth in the SWF permit for the facility at any time during the term of the permit. Any expansion, extension, enlargement or other increase beyond permitted capacity conditions shall be considered a new facility and shall require the application for the Departmental approval of a new permit.

3. The Department may issue any permit for a duration that is less than the full allowable term under this section.

(b) SWF permit renewal submission requirements and procedures shall be as follows:

1. The permittee of a permitted solid waste facility shall apply for permit renewal at least 90 days prior to the expiration date of the existing SWF permit if the facility has remaining permitted capacity in accordance with its SWF permit and if the facility is included in the District Solid Waste Management Plan.

2. The permittee, owner or operator shall submit all fees required by N.J.A.C. 7:26-4 and the following materials to the Department, if needed to update the facility's operations, as an application to renew the SWF permit for that facility:

- i. An updated registration statement on forms provided by the Department;
- ii. An updated engineering design for the facility;
- iii. An updated Operations and Maintenance Manual for the facility; and
- iv. An amendment to the disclosure statement as required pursuant to N.J.A.C. 7:26-16.6; and
- v. An updated environmental and health impact statement, including a complete and detailed description of changes in environmental impacts resulting from the operation of the facility and additional mitigation measures being proposed to address such impacts.

3. The Department shall publish notice in the DEP Bulletin and shall notify all parties as specified in N.J.A.C. 7:26-2.4(g)6 and 7 of the SWF permit renewal application.

4. The Department shall review the application for completeness in accordance with procedures set forth at N.J.A.C. 7:26-2.4(g).

5. The Department shall provide notice of its tentative decision on the permit renewal application and of the opportunity for a public hearing in accordance with N.J.A.C. 7:26-2.4(g)14iii.

6. A request for a public hearing must be filed within 30 days of publication of a notice of opportunity for such hearing in accordance with N.J.A.C. 7:26-2.4(g)14iii.

7. The public comment period shall close 15 days after the date of last public hearing or 30 days after the notice of opportunity for a public hearing on the renewal application.

8. The final agency decision on the SWF permit renewal application shall be based on the administrative record as defined in N.J.A.C. 7:26-2.4(a)19.

(c) The conditions of an expired permit are continued in force pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-11, until the effective date of a new permit if:

1. The permittee has submitted a timely and complete application for a renewal pursuant to (b) above;
2. The Department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit, due to time or resource constraints;

(d) Permits continued under this section remain fully effective and enforceable;

1. If the permittee is not in compliance with any one of the conditions of the expiring or expired permit the Department may choose to do any or all of the following:
 - i. Initiate enforcement action based upon the permit which has been continued;
 - ii. Issue a notice of intent to deny the new permit under N.J.A.C. 7:26-2.4. If the permit is denied, the owner or operator would then be required to cease activities and operations authorized by the continued permit or be subject to an enforcement action for operating without a permit;
 - iii. Issue a new permit under N.J.A.C. 7:26-2.4 with appropriate conditions; or
 - iv. Take such other actions as are authorized by these regulations or the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

(e) A permittee shall not transfer the SWF permit directly to a new owner or operator without the Department's approval.

1. Any transfer of a permit must be preapproved by the Department, and a written request for permission to allow such transfer must be received by the Department at least 180 days in advance of the proposed transfer of ownership or operational control of a facility. The request for approval shall include the following:

i. A registration statement, completed by the prospective new permittee on forms provided by the Department;

ii. A disclosure statement as required by N.J.A.C. 7:26-16.4 completed by the proposed transferee;

iii. A demonstration that the financial responsibility requirements of N.J.A.C. 7:26-2A.9 will be met by the proposed new permittee; and

iv. A written agreement between the existing permittee and the proposed new permittee containing a specific future date for transfer of ownership or operations.

2. A new owner or operator may commence operations at the facility only after the existing permit has been revoked and a permit is issued pursuant to N.J.A.C. 7:26-2.4.

3. The permittee of record remains liable for ensuring compliance with all conditions of the permit unless and until the existing permit is revoked and a new permit is issued in the name of the new owner or operator.

4. Compliance with the transfer requirements set forth in this subsection shall not relieve the permittee from the separate responsibility of providing notice of such transfer pursuant to the requirements of any other statutory or regulatory provision.

Amended by R.1986 d.388, effective September 22, 1986.
See: 17 N.J.R. 2719(a), 18 N.J.R. 1932(a).

(f) added.

New Rule, R.1987 d.235, effective June 1, 1987.
See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Repealed disrupted landfill requirement.

Amended by R.1989 d.216, effective April 17, 1989.
See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Required fees to be submitted at time of permit renewal application and referenced, at (b)2.v., updated environmental and health impact statement.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a) and (b)4, amended N.J.A.C. reference.
Administrative change.
See: 30 N.J.R. 3948(a).

7:26-2.8 Registration and general prohibitions

(a) The registration statement shall be executed, in accordance with the requirements of N.J.A.C. 7:26-2.4(e), on forms furnished by the Department, and shall state such information necessary and proper for the enforcement of this subchapter as the Department may require.

(b) Prior to May 1 of each calendar year, each permittee shall submit to the Department, a statement updating the information contained in the initial registration statement. This update shall be on forms furnished by the Department. In no case shall submission of an updated statement alter the conditions of the permit.

(c) The permittee shall notify the Department in writing within 30 days of any change in the information set forth in this current registration statement.

(d) The failure to submit an updated registration statement and to submit all applicable fees, required by N.J.A.C. 7:26-4, on or before July 1 of each calendar year shall be sufficient cause for the Department to revoke the permit or take such other enforcement action as is appropriate.

(e) No person shall engage or continue to engage, unless exempt by N.J.A.C. 7:26-1.1, 1.7 or 1.8 in the disposal of solid waste in this State without first having filed a completed application for and received approval of a SWF Permit.

1. No person shall be issued an approved registration or a SWF permit if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

(f) No person shall begin construction or operation of a solid waste facility without obtaining a SWF Permit unless exempt pursuant to N.J.A.C. 7:26-1.1, 1.7 or 1.8.

(g) No person shall continue to operate a solid waste facility, unless exempt pursuant to N.J.A.C. 7:26-1.1, 1.7 or 1.8 without obtaining a SWF Permit. All existing Certificates of Approved Registration and Engineering Design Approval shall constitute an approved SWF Permit until the duration of the Certificate of Approved Registration and Engineering Design Approval expires or a modification is requested by the permittee or required by the Department.

(h) The fulfillment of the application and approval requirements set forth in this subchapter shall not exempt the applicant from obtaining all other permits or approvals required by law or regulations.

(i) No person shall engage or continue to engage in the disposal of solid waste in this State if such an operation does not comply with the operational requirements of N.J.A.C. 7:26-2.11, unless specifically exempted by N.J.A.C. 7:26-1.1, 1.7 or 1.8.

(j) No person shall engage or continue to engage in disposal of solid waste in this State in a manner which does not meet all the conditions, restrictions, requirements or any other provisions set forth in its SWF permit.

(k) Except for minor modifications as set forth at N.J.A.C. 7:26-2.6(d), no permit condition shall be modified, revised or otherwise changed without prior written approval of the Department.

(l) No owner shall transfer ownership of the permit without receiving prior written approval of the Department, in accordance with N.J.A.C. 7:26-2.7(e).

(m) No permittee shall begin construction of a sanitary landfill until the Department approves the final Quality Assurance/Quality Control Plan submitted in accordance with N.J.A.C. 7:26-2A.8.

(n) No permittee shall begin operating a sanitary landfill, composting or co-composting facility, transfer station, materials recover facility, or thermal destruction facility until:

1. The Department approves the final Operations and Maintenance manual in accordance with N.J.A.C. 7:26-2.10; and

2. The Department receives and approves the certification of construction prepared by a N.J. licensed professional engineer in accordance with N.J.A.C. 7:26-2A.9(a).

(o) No thermal destruction facility shall begin operations until:

1. The Department receives and approves the certification of the construction prepared by a N.J. licensed professional engineer in accordance with N.J.A.C. 7:26-2B; and

2. The Department approves the testing period results in accordance with standards and procedures set forth in N.J.A.C. 7:26-2B.8(c).

(p) The owner or operator of any solid waste facility which is determined by the Department to be operating in an environmentally unsound manner shall:

1. Within 90 days of notification by the Department, submit a plan to close or environmentally upgrade the facility in conformance with the applicable standards, as determined by the Department and set forth in this chapter;

2. Within 90 days of receipt of written approval by the Department of the submitted plan, begin to close or construct the environmental upgrading at the facility; and

3. Within one year of receipt of written approval by the Department of the submitted plan, complete closure or construction of the environmental upgrading at the facility.

(q) A one time extension of the compliance schedule established by (p) above shall be granted by the Department provided the facility owner or operator demonstrates that he or she has made a good faith effort to meet the schedule.

(r) Should the closure or environmental upgrading required pursuant to (p) above not be completed or should continued operations be determined by the Department to be environmentally unsound despite the implementation of the plan approved pursuant to (p) above, the solid waste facility shall temporarily or permanently cease operations and close or enter into receivership, as provided for in N.J.S.A. 13:1E-9, for that period of time necessary to rectify the environmentally unsound conditions.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Repealed "Smoking, smoldering or burning landfill".

Emergency Amendment, R.1988 d.547, effective October 26, 1988 (expires December 25, 1988).

See: 20 N.J.R. 2817(a).

Added sections 1.11 or 1.12.

Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.

See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).

Provisions of Emergency Amendment R.1988 d.547, readopted without change.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (e), (f), (g) and (i), amended N.J.A.C. references; in (k), inserted text "Except for . . . 7:26-2.6(d)"; and added (p) through (r).

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

Revocation of solid waste transporter's license due to lack of permit and failure to pay sales taxes modified. New Jersey Department of Environmental Protection and Energy, Division of Solid Waste Management, 97 N.J.A.R.2d (EPE) 50.

Denial and revocation of licenses was justified for recycling facility that handled solid waste without a permit. Department of Environmental Protection and Energy v. Tempesta & Sons, Inc., 96 N.J.A.R.2d (EPE) 247.

7:26-2.9 Environmental and Health Impact Statement requirements

(a) The Environmental and Health Impact Statement, (hereinafter EHIS), shall be prepared utilizing a systematic, interdisciplinary approach in order to ensure the integrated assessment of technical, economic, environmental and social parameters potentially affected by the proposed facility.

(b) An EHIS prepared and submitted pursuant to this section shall address each category described at (c)3 below. The magnitude and detail of the environmental inventory, the environmental assessment, the health impact assessment and the overall EHIS shall reflect the type, size and location of the proposed solid waste facility. Where the information addressing a requirement of the inventory is supplied in the engineering designs or reports, reference to such designs or reports may be noted in the inventory, provided the appropriate section and page number of the design or report is cross referenced and indexed. If any category described at (c)3 below presents no impact relative to the proposed facility, a notation of non-applicability shall be entered in the environmental inventory for that category. The Department shall allow variances to the requirements of this section for any category, or to reduce the size of the general area to be described in the inventory relative to site specific impacts, if the applicant demonstrates during the pre-application conference that specific categories are not applicable or the area is not appropriately subject to the EHIS based on the type, size and location of the proposed solid waste facility.

(c) The EHIS for all solid waste facilities other than solid waste facilities for which specific requirements are set forth in (d) below, shall contain the following:

1. An executive summary which shall briefly describe the proposed facility, any significant associated positive and negative impacts and any mitigative measures which will be utilized to minimize or eliminate such negative impacts;

2. A detailed written description of the municipal and neighborhood setting of the proposed facility. The site location shall also be identified by the following:

i. An 8½ inch x 11 inch copy of the key map prepared in accordance with N.J.A.C. 7:26-2.10(b)4 and submitted as part of the engineering design; and

ii. An 8½ inch x 11 inch copy of the vicinity map prepared in accordance with N.J.A.C. 7:26-2.10(b)5 and submitted as part of the engineering design.

3. An environmental inventory, prepared in detail for the site specific conditions and, unless otherwise specified herein, a general description for a minimum area of one mile from the perimeter of the proposed facility's property lines, describing existing conditions for each of the following categories:

i. Category I, the physical/chemical category, requires the following parameter descriptions:

(1) Describe the physical geology by identifying major characteristics of the formations present, including, but not limited to, thickness, lithology, structural features, degree of weathering and amount of overburden. The description of the site specific geology shall include, but not be limited to, the general engineering properties and indexes and, where applicable, the quality of the subsurface soils. Provide a copy of the geologic map prepared in accordance with N.J.A.C. 7:26-2.10(b)7ii;

(2) Describe the soils by identifying major soil types and their characteristics including, but not limited to, drainage, erosion potential and sedimentation potential. Information shall be based on U.S. Soil Conservation Service Surveys. The description of the site specific soils shall include, but not be limited to, the texture and thickness of each horizon, observed mottling, taxonomic classification and, where applicable, the quality of the surface soils. Provide a copy of the soils map prepared in accordance with N.J.A.C. 7:26-2.10(b)7i;

(3) Describe the subsurface hydrology by presenting groundwater quantity and quality data for the aquifers located beneath the site, including, but not limited to, depth to groundwater during seasonal high and low flow, flow direction, existing uses and future supply capabilities;

(4) For water bodies which directly abut the site, exist on the site, or drain directly onto or off the site, provide detailed water quantity and quality data. Such data shall include, but not be limited to, flow rates, current uses and supply capabilities, dissolved

oxygen (D.O.), biochemical oxygen demand (B.O.D.), total organic carbon (T.O.C.) total suspended solids (T.S.S.) and general temperature regime. Identify also all existing water classifications, designated uses and limitations of the surface water bodies in accordance with N.J.A.C. 7:9B;

(5) For upstream tributaries of bodies of water which flow onto the site, and downstream tributaries of bodies which flow from the site, identify all existing water classifications, designated uses and limitations of the surface water bodies, in accordance with N.J.A.C. 7:9B. Provide also a narrative description of the factors influencing the water quality in such bodies, including but not limited to major permitted discharges, tributaries or confluences with other bodies, etc. Information required by this subsection shall be provided for a distance of one mile from the site boundary;

(6) For all water bodies not named in (4) and (5) above, identify all existing water classifications, designated uses and limitations of the surface water, in accordance with N.J.A.C. 7:9B;

(7) Provide documentation that the proposed facility will not be inconsistent with any facility or area wide water quality management plan developed pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.;

(8) Describe the topography by presenting contour data, drainage patterns and 100 year floodway and flood hazard areas delineations pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., or areas identified pursuant to and based upon the most current Federal Flood Emergency Management Act (F.E.M.A.) maps and data;

(9) Describe the climate by presenting site specific data for wind direction, velocity and frequency, average annual and monthly precipitation and temperature. Unless specifically required to be otherwise obtained by the Department, meteorological data may be obtained from the nearest National Oceanographic and Atmospheric Administration (N.O.A.A.) sanctioned station;

(10) Describe the ambient air quality by presenting data for existing concentrations of the National Ambient Air Quality Standard pollutants as identified in 42 USC 7401 et seq., and provide a demonstration that the proposed facility will be consistent with the New Jersey State Implementation Plan and related air quality requirements established by the Office of Air Quality Management. Unless specifically required to be otherwise obtained by the Department, ambient air quality data may be obtained from the nearest State operated monitoring station.

(11) Describe the ambient acoustical conditions by providing day and night noise levels measured at the

boundaries of the proposed site. Identify sources of impulsive and continuous noise.

ii. Category II, the biological/ecological category, requires the following parameter descriptions:

(1) Characterize the site and an area within one mile radius from the site boundary, with respect to major plant association (for example, mixed hardwood forest, old field successional, etc.). Delineate different associations present in a mapped format. Identify major dominant and minor species present in each plant association present. Provide estimates of the proportions of each;

(2) For game and non-game mammals, and for an area which includes the site and area within one mile radius from the site boundary, describe utilization by identifying species and estimating populations utilizing these areas for year-round, breeding, wintering and migratory purposes. Relate utilization of areas for these purposes to the plant associations described in (1) above;

(3) For game and non-game birds, and for an area which includes the site and an area within one mile radius from the site boundary, describe utilization by identifying species and estimating populations utilizing these areas for year-round, breeding, wintering and migratory purposes. Relate utilization of areas for these purposes to the plant associations described in (1) above;

(4) For reptiles and amphibians, for those water bodies listed in (c)3i(4) and (5) above, and for an area within one-quarter mile radius from the site boundary, describe utilization by identifying species and estimating populations utilizing these areas for year-round, breeding, wintering and migratory purposes. Relate utilization of areas for these purposes to the plant associations described in (1) above;

(5) For fish, for all water bodies listed in (c)3i(4) and (5) above, and all water bodies within one-quarter mile of the site boundary, describe utilization by identifying species and estimating populations utilizing the site for year-round, breeding, wintering and migratory purposes;

(6) Describe the plant or animal species on the Federal and State endangered, threatened or rare plant or animal species lists and identify, in a mapped format, the extent of utilization by such species, if present. Quantify the amount of habitat at the site for each such species and the corresponding carrying capacity for each species. Evaluate applicable breeding, wintering and migratory patterns when identifying species utilization;

(7) Identify by mapping any unique, critical or unusual habitat including, but not limited to, wetlands, prime agricultural lands, steep slopes of greater than 15 percent, riparian lands, coastal zones or other areas as may be specified by the Department;

(8) Present a description of site visits actually undertaken to evaluate the site ecosystem. The description should include the date, duration of the visit, weather conditions, individuals present to conduct the study, parameters being studied and a copy of studies prepared in connection with preparation of the environmental inventory; and

(9) Describe the methodologies utilized to evaluate the biotic community and present a bibliography of all research materials utilized in the preparation of the environmental inventory. The description of the methodologies utilized shall be sufficient to permit an independent expert to form an opinion as to the scientific justification and integrity of the selected methodology.

iii. Category III, the cultural category, requires the following parameter descriptions:

(1) Describe recreational activities by identifying areas known to be used for such activities as hunting, fishing, trapping, boating, swimming, tourism, camping, nature photography and bird watching. Identify designated parks, forests and wildlife management areas, natural areas and other publicly or privately owned lands designated for open space or recreational activities;

(2) Describe the aesthetics by identifying surrounding architecture, open space areas and scenic areas; and

(3) Describe the areas of historical or archeological importance.

iv. Category IV, the socioeconomic category, requires the following parameter descriptions:

(1) Describe the transportation facilities by identifying the network which will service the proposed facility, site access capability, and existing traffic flow patterns expressed in terms of daily peak hour volumes, off peak hour volumes, levels of service and average daily number of trips. Identify any proposed local, county, or State Department of Transportation traffic engineering plans for the network identified;

(2) Describe the sewage facilities by identifying the type of treatment system available, its existing treatment capacity, collection system capacity, average and peak flow data, and current committed capacity for treatment and collection system;

(3) Describe the stormwater management system by identifying the type of collection and treatment system available, and current collection and treatment capacity and utilization;

(4) Describe the water supply by identifying the water supply system, water sources, level and type of existing pre-treatment, capacity of the distribution system, current commitment of capacity, availability of additional supply, and peak and average demands;

(5) Describe the energy supply system on-site or immediately available to the site by identifying existing power lines or pipelines, current commitment of capacity, their capability of supplying energy to the proposed facility and conveying, if applicable, any energy products generated by the proposed facility from the site;

(6) Describe the demography of the area by providing existing population totals and describing present and projected future population and trends for the district within which the facility will be located and all districts which will utilize the proposed facility. State, county or local government sources may be used for all demographic data;

(7) Describe property values within the immediate neighborhood with respect to median sales prices and recent (1-2 year) trends and provide a general description of the property values of the municipality within which the proposed facility will be located and all municipalities within one half mile of the proposed facility. The descriptions shall include such factors as zoning changes, development patterns, development approvals, etc. which can affect property values. The description of property values in the immediate area of the facility shall be sufficiently detailed to allow assessment of the effect construction and operation of the facility may have on such values;

(8) Describe public services available by identifying current local law enforcement, fire protection and health protection capabilities of the municipality in which the proposed facility will be located; and

(9) Describe the type and map the location of community and residential dwellings such as hospitals, nursing homes, food processing centers, playgrounds, parks, schools and residences.

4. A description of the proposed facility operations, which shall include, but not be limited to the following:

i. An identification of the project sponsor including name, address, and telephone number where the project sponsor can be contacted during normal working hours. Indicate if the project sponsor is presently, or was previously, associated with any other waste disposal or collection project or operation and, if applicable,

identify the project or operation. Describe the responsibilities assumed during this association;

ii. An explanation of the purpose of the proposed facility, which shall include a description of the products or services being provided and a list of benefits to be realized by the owner, the community in which the facility is to be located, and the surrounding communities;

iii. An identification of existing or potential markets for each of the products to be recovered from the solid waste disposal operation, if applicable. Identify the types, qualities and daily quantities of products to be recovered. Set forth the elements of a quality control plan for the recovered products. Provide a copy of any long-term contracts for the sale of the recovered products, if available. In the case where long term contracts have not been finalized upon submittal of the EHIS, a detailed letter of intent, describing areas of agreement and disagreement, shall be submitted. The end use of the recovered products, by the purchaser, shall be defined;

iv. An economic analysis for the proposed facility which projects and approximates capital, operating and maintenance expenditures, as well as any revenues to be realized from the anticipated sale of recovered products, if applicable. The analysis shall project the maximum and minimum charges to be assessed for the various waste ID types to be handled, including an estimate of the initial tipping charges to be levied;

v. An identification of the waste streams which the proposed facility will accept, and copies of any agreements which guarantee a steady flow of this waste to the facility;

vi. A time schedule for the development and start-up of the proposed facility including anticipated completion dates for major phases of construction; and

vii. A narrative statement of the type of disposal processes to be used, including control measures and monitoring instrumentation. A discussion of the following shall also be included:

(1) The types, capacities and number of units of the processing equipment to be utilized and their relationship to the overall operation; and

(2) The daily and hourly handling capacity of the overall facility in tons of refuse received per day and the anticipated operating time in hours per day and days per week; and

viii. A description of the quantity and physical/chemical characteristics of process residues and side-stream wastes resulting from the operation, if applicable. A detailed discussion of appropriate methods of disposal for all such materials such as, through contracts or inclusion in the appropriate district solid waste management plan, including, if available, the identification of

primary and alternate disposal sites and methods of storage and handling and methods of reuse or recycling, if applicable.

5. A discussion of the relationship of the proposed action to Federal, State, county, and local land-use plans, policies and controls and environmental regulations. The discussion shall include the following:

i. A description of present land use for the site of the proposed facility and the area within two miles of the perimeter of the facility property line. Include a map or maps illustrating zoning designations and a chart setting forth use restrictions. If the site, any portion of the site or any areas adjacent to the site was previously used for waste landfilling, information relating to depth and area of deposition, type of material landfilled, gas concentration and migration, settling and other factors which may potentially affect construction and operation shall be provided;

ii. A description of how the project will conform or conflict with the objectives of any applicable Federal, State or local land use and environmental requirements including, but not limited to, those affecting the following:

(1) The floodway and flood fringe areas of the flood hazard areas as identified by the Department pursuant to the State Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., or areas identified under the flood insurance studies prepared by the Federal Emergency Management Agency (FEMA);

(2) Areas designated as wild, scenic, recreational or developed recreational rivers pursuant to the Natural Wild and Scenic Rivers Act, 16 USCA 1271 or the New Jersey Wild and Scenic River Act, N.J.S.A. 13:8-45;

(3) Critical habitat of endangered or threatened species of plants, fish or wildlife as defined by the Federal Endangered Species Act of 1973, P.L. 93-205, or the New Jersey Endangered and Non-Game Species Conservation Act, N.J.S.A. 23:2A-1 et seq.

(4) Wetlands, tidelands and coastal zone areas as identified by the Department pursuant to the Wetlands and Coastal Resource and Development Policies, N.J.A.C. 7:7E and as identified on the U.S. Fish and Wildlife Services National Wetlands Inventory Maps;

(5) The Preservation and Protection Areas as established by N.J.S.A. 13:18A-11 of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.;

(6) Nonattainment areas as defined in N.J.A.C. 7:27-18;

(7) Areas subject to the prevention of significant deterioration criteria as defined in 40 CFR 52.21;

(8) Areas which may impact the acoustical quality of residential and commercial properties pursuant to N.J.A.C. 7:29;

(9) Areas which may significantly impact water quality pursuant to N.J.A.C. 7:15;

(10) Lands that have been duly certified by the State Agriculture Development Committee as agricultural development areas pursuant to the Agricultural Retention and Development Act, N.J.S.A. 4:1C-11 et seq.;

(11) Watershed areas for water classified by the Department as FW-1 waters or FW-2 Trout Production Waters pursuant to the Surface Water Quality Standards, N.J.A.C. 7:9B;

(12) Areas over a sole source aquifer designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974, P.L. 93-523;

(13) Areas within the critical supply areas as defined by the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.;

(14) Areas which will encroach upon, damage or destroy any area, site, structure or object included in the National or State Register of Historic Places established by N.J.S.A. 13:1B-15.128;

(15) Areas within 10,000 feet of any airport runway which is equal to or greater than 3,000 feet in length, within 5,000 feet of any airport runway which is less than 3,000 feet in length;

(16) Areas dedicated to recreational or open space use including, but not limited to, national parks, national recreation areas, national forests, national wildlife refuges, state wildlife management areas, state parks, state forests, state designated natural areas and county or local parks, wildlife sanctuaries and recreational facilities; and

(17) Areas subject to cleanup pursuant to the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq.;

iii. Where the potential for a land use or environmental conflict exists, the applicant shall describe the mitigation efforts to be undertaken to meet the intent of the applicable land use or environmental requirement.

6. A comprehensive description of the district solid waste and, if applicable, sludge management plans for the districts wherein the proposed facility is to be located, from which solid waste is to be received, or to which process residues are to be sent for disposal. The description shall include the following:

i. An identification of all affected municipalities and districts and a description of the strategy of each plan as it pertains to the proposed facility; including inter-district waste flow agreements and intra-district waste flow patterns, plan duration, recycling and waste reduction goals, implementation schedules and plan implementing agencies. A description of how the proposed facility will conform with the content and strategy of each plan shall also be included; and

ii. A discussion of the elements of the plan which indicate a need for the facility, its relation to current solid waste disposal capacities and the mechanisms established that will guarantee the necessary waste flows to the proposed facility.

7. A list and status report on all Federal, State, county and local licenses, permits and certifications necessary for the proposed facility;

8. An environmental assessment, which shall provide a detailed evaluation of the potential impacts of the proposed facility on the environment including, but not limited to, all parameters identified in the environmental inventory in (c)3 above. The assessment shall include, but not be limited to, the following:

i. An evaluation of both positive and negative, as well as, primary (direct or immediate) and secondary (indirect or long range) impacts on each parameter under conditions of maximum usage or output and a correlation of such impacts with various stages of the site preparation, facility construction, operation, closure and post closure phases;

ii. An identification and description of the modeling techniques used to predict impacts on the various parameters identified in (c)3 above. Where applicable, a calibrated and verified model shall be used and a copy of the model in the appropriate format shall be transmitted to the Department. Where an accepted modeling technique is not available best professional judgment may be used. A detailed description of the logical reasoning and assumptions made in the exercise of best professional judgment shall be incorporated to permit independent review;

iii. Isopleths, grid maps or other maps to depict potential zones of contaminant migration surrounding any and all sources of emission or discharge. Identify the type and location of each source;

iv. A quantification of impacts whenever possible (for example, lost habitat in acres) for all potential environmental impacts identified, where such quantification is not included, an explanation of the reason for such omission shall be provided;

v. A qualitative discussion of all potential environmental impacts identified; and

vi. A detailed description of the mitigative techniques proposed to address any potential environmental impact associated with the proposed facility.

9. A health impact assessment for Class II and III sanitary landfills and thermal destruction facilities, which shall provide a detailed evaluation of the potential impacts of the proposed facility on human health resulting from ground or surface water discharges and air emissions, including, but not limited to the following:

i. A description and discussion of the health risk assessment methodology to be employed, including detailed descriptions of the logical reasoning and assumptions employed in the method. A bibliography of reference material utilized in the preparation of the assessment shall be provided. Applicants shall contact the Department prior to the initiation of the assessment to obtain the current guidelines for such activities;

ii. A discussion of the level of uncertainty involved in the overall assessment. This discussion shall address the uncertainty involved in the estimation of individual parameters such as emissions or discharge and decay rates, levels of exposure and health effects, as well as the implications of complex uncertainties;

iii. A listing of all potential contaminants which may reasonably be expected to be released from the facility, and the amounts, concentrations and pathways of each;

iv. A listing of contaminants which will be utilized to assess health risks. All known carcinogens listed in (c)9iii above shall be included; additional contaminants shall be included, based on professional judgment. This list, together with a description of the rationale employed in choosing those materials included on the list, shall be submitted to the Department for review and approval prior to the initiation of the toxicity profile and health impact assessment;

v. For each of the contaminants listed in (c)9iv above, a toxicity profile shall be developed. This profile shall include data on the physical and chemical nature of the contaminant, as well as a description and discussion of data available regarding the environmental fate, acute effects (LD_{50} , irritation), chronic effects (mutagenicity, teratogenicity, carcinogenicity) and epidemiology of the material. This profile shall include a listing of available toxicological, epidemiological or other acute or chronic health effects studies used or otherwise available on the material in question. Applicants should contact the Department prior to the initiation of development of these profiles, to obtain the current guidelines for such activities;

vi. A quantification of the potential health impacts, where possible. If such quantification is not included, an explanation of the reason for such omission shall be provided; and

vii. A detailed description of the mitigation techniques proposed to address any potential health impacts associated with the proposed facility.

10. A summary discussion of any potential adverse impacts identified in the environmental and health assessment in (c)8 and 9 above that cannot be avoided should the proposed facility be implemented. For those impacts which cannot be avoided, their implications and the reasons why the proposed facility should be permitted shall be described. Where mitigation measures are proposed to reduce these potentially adverse impacts, the projected effectiveness and costs of the mitigative measures shall be discussed.

11. A comparison of reasonable design alternatives to the proposed facility. The comparison shall be sufficiently detailed to permit independent and comparative evaluation of the benefits, costs and environmental impacts of the design of the proposed facility and each reasonable design alternative. The comparison shall include the following:

i. Discussion of the alternative of no action or no project, and addressing the major foreseeable consequences of such a choice;

ii. Discussion of the feasibility of various alternative design or process changes, including those which could reduce or avoid some or all of the adverse impacts identified above;

iii. Preparation of economic analyses for both the chosen design and the identified design alternatives. Techniques such as cost-effectiveness analysis, cost-revenue analysis or other techniques approved by the Department may be employed;

iv. Identification of any significant differences in environmental impact which would result from use of the design/process changes identified in ii above, as compared to those resulting from the chosen alternative;

v. Comparison, in matrix or other appropriate format, of the degree of feasibility and economic and environmental impacts of both the chosen alternative and the set of feasible alternatives identified in (c)11ii above; and

vi. A discussion of the reasons why the proposed action was selected over the alternatives.

12. A discussion of the relationship between local, short term uses of the environment and the effect of the proposed facility on available options for subsequent future uses. Short term refers to the construction phase of the proposed facility. A description of the following shall be included:

i. Those cumulative and long-term effects of the proposed facility which either negatively impact or enhance the environment for the future;

ii. The extent to which the proposed facility prohibits future options;

iii. Plans which provide for the protection and maintenance of the environment during construction of the proposed facility, which shall include, but not be limited to, the following:

(1) Procedures to be used during construction if archeological resources are uncovered;

(2) Erosion and sediment control plans; and

(3) Controls for dust, odors, noise, traffic, and soil tracking.

iv. Plans which provide for the protection and maintenance of the environment after termination of the facility operation.

13. A discussion of irreversible and irretrievable commitments of resources resulting from the construction and operation of the proposed facility. The discussion shall include an analysis of the use of renewable and nonrenewable resources during construction and throughout continued operation, including an assessment of energy consumption. Where applicable, alternative energy sources shall be discussed and compared to the type selected and the rationale for the selection shall be stated.

(d) The minimum EHS requirements for other types of solid waste disposal operations are as follows:

1. The EHS for small scale thermal destruction facilities described in N.J.A.C. 7:26-2.4 (c)1 shall be based on the engineering designs submitted as set forth at N.J.A.C. 7:26-2.10 and shall contain a description of the following:

i. Facility operations, including volumes of waste to be handled, methods of handling, facility layout, and residue disposal;

ii. The site location of the proposed facility. A copy of the vicinity map and the site plan map submitted as part of the engineering design as set forth at N.J.A.C. 7:26-2.10(b);

iii. The impact that the proposed facility will have on local transportation patterns, drainage characteristics, surface and ground water quality, endangered and/or threatened wildlife and vegetation, storm water and wastewater collection treatment capability, water supply capability, air quality and ambient acoustical conditions. If the proposed facility is to be located in a previously constructed building, the applicant may note "nonapplicable" for those areas of concern; and

iv. A discussion of whether the proposed facility is consistent with the existing solid waste management district policies and solid waste management plans of those districts which will be affected by the proposed facility.

2. The EHIS for small-scale materials recovery facilities, whose prime mode of operation relies upon the utilization of non-mechanical processing features, and solid waste transfer stations shall be based on engineering designs prepared in accordance with the requirements of N.J.A.C. 7:26-2.10, and shall contain a description of the following:

i. Facility operations, including volumes of waste to be handled, methods of handling, facility layout, and use of end product;

ii. The site location of the proposed facility. A copy of the vicinity map and the site plan map submitted as part of the engineering design and identified in N.J.A.C. 7:26-2.10(b)5 and 6 shall be included;

iii. The impact that the proposed facility will have on local transportation patterns, drainage and soil characteristics, surface and ground water quality, endangered or threatened wildlife and vegetation, storm water and wastewater collection/treatment capability, water supply capability, ambient acoustical conditions and air quality;

iv. A discussion of whether the proposed facility is consistent with the existing solid waste management district policies and solid waste management plans of those districts which will be affected by the proposed facility; and

v. A description of how the facility will conform or conflict with the objectives of any applicable Federal, State, or local land use and environmental requirement set forth at N.J.A.C. 7:26-2.9(c)5ii.

3. The EHIS for other types of small scale solid waste disposal operations not identified in this section shall be prepared in accordance with requirements established by Department for the operation, based upon the potential for adverse environmental and health impacts caused by such operations;

4. In addition to the EHIS requirements enumerated in this section, the Department retains the right to request additional EHIS information from the applicant.

(e) Compliance with the EHIS requirements set forth in this section shall not preclude the necessity for the applicant to conform with any environmental analysis requirements of other agencies which may have jurisdiction by law.

(f) A preliminary EHIS may be submitted to the Department prior to the submission of a complete permit application package for review and approval in accordance with the procedures set forth in (g) below and shall include but not be limited to the following:

1. An executive summary prepared in accordance with (c)1 above;

2. A site description prepared in accordance with (c)2 above;

3. An environmental inventory of the proposed facility prepared in accordance with (c)3 above;

4. An environmental assessment of the proposed facility, based on conceptual or preliminary engineering designs shall be performed and analyzed at maximum possible discharge or emission levels and on the parameter listed in the environmental inventory performed as required by (c)3 above;

5. A discussion of the relationship of the proposed facility to any Federal, State, county and local land-use or environmental plans, policies, controls or regulations. The discussion shall include the following:

i. A description of how the proposed facility will conform or conflict with the objectives of any of the Federal, State, county or local land-use or environmental requirements set forth in (c)5ii above.

ii. A description of the Federal, State, county or local land-use or environmental requirements which may restrict the construction and operation of the proposed facility; and

iii. A detailed description of the mitigative techniques proposed to address any potential land use or environmental impact associated with the proposed facility.

6. A discussion of any potential adverse impact identified in the environmental assessment in (f)4 and 5 above that cannot be avoided;

7. A comparison of alternatives to the proposed facility design, which shall be sufficiently detailed to permit evaluation of the benefits, costs and environmental impacts of the proposed facility design and reasonable design alternatives;

8. A discussion of the relationship between local, short-term uses of the environment and long-term future uses; and

9. An identification of irreversible and irretrievable commitments of resources that would be affected by the proposed facility.

(g) The following are the procedures for preliminary EHIS review and approval and the effect of the preliminary EHIS approval:

1. An applicant may, at its own option, submit a preliminary EHIS to the Department prior to the submission of a complete application for a SWF permit;

2. The preliminary EHIS shall contain all information required pursuant to (f) above and such other information as the Department deems necessary during a pre-application conference for preliminary EHIS review;

i. The applicant shall provide the Department with documentation demonstrating that the proposed facility is consistent with the adopted and approved objectives

and strategies set forth in the applicable district solid waste management plan, and that the proposed facility can be acquired, constructed or operated pursuant to the standards set forth in this chapter.

3. The preparation of a preliminary EHS is not a precondition to the preparation and submittal of a complete application for a solid waste facility permit;

4. After submission of a preliminary EHS, the Department shall review the preliminary EHS and take one of the following actions:

i. Request, in writing, additional information required by the Department to conclude a review of the preliminary EHS. Such request shall specify any additional information such as modeling, environmental or health assessments or project alternatives necessary to sufficiently evaluate the preliminary EHS. The applicant shall respond within 14 days of the receipt of the written request and specify its intent to proceed with the submission of the information requested or terminate the preliminary EHS review;

ii. Recommend a reconsideration of project alternatives based upon a review of the facts and proposed impacts of the proposed facility;

iii. Approve the preliminary EHS; or

iv. Disapprove the preliminary EHS.

5. Preliminary EHS review and approval shall not preclude the necessity for an applicant to prepare and submit a final EHS to the Department as part of a complete permit application pursuant to N.J.A.C. 7:26-2.4(d);

6. Pursuant to N.J.S.A. 13:1E-26 and N.J.S.A. 13:1E-29, an applicant receiving preliminary EHS approval may:

i. Acquire real property intended for use in connection with the proposed facility; or

ii. Issue bonds or other obligations necessary to ensure available financing for the proposed facility's planning, development and implementation.

7. An applicant's decision to acquire property, issue bonds or take any other actions after receiving a preliminary EHS approval will be solely at the applicant's risk. Any acquisition action taken or expenditures made in reliance on the preliminary EHS approval are entirely at the applicant's own risk and the Department shall not be liable therefor; and

8. The issuance of any preliminary EHS approval pursuant to this section shall not be binding on the Department in its review of any subsequent submissions by an applicant for a SWF permit.

Section was "Termination or change of ownership of a landfill"; replaced with new text.

Amended by R.1986 d.305, effective July 21, 1986.

See: 18 N.J.R. 1036(a), 18 N.J.R. 1462(a).

Substantially amended.

Amended by R.1987 d.117, effective February 17, 1987.

See: 18 N.J.R. 2170(b), 19 N.J.R. 356(a).

(f)4, (g)19 and 21 substantially amended.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Repealed "Closure and post-closure care of sanitary landfills".

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended (b); in (c)2, deleted reference to certification that facility within district plan; in (c)3i(4), amended N.J.A.C. reference; deleted (d)1; recodified (d)2 through (d)5 as (d)1 through (d)4; in (d)1, amended N.J.A.C. reference; in (d)1ii inserted text "submitted as part... 7:26-2.10(b); and in (d)1iii, added the last sentence.

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

DEP must strictly construe its own regulations. Matter of Hazardous Waste Facility Permit No. 0901D21HP01 by Dept. of Environmental Protection to ICI Americas, Inc., 258 N.J.Super. 483, 610 A.2d 420 (A.D.1992).

Operator of hazardous waste facility could not construct new incinerator without submitting Environmental Impact Statement (EIS). Matter of Hazardous Waste Facility Permit No. 0901D21HP01 by Dept. of Environmental Protection to ICI Americas, Inc., 258 N.J.Super. 483, 610 A.2d 420 (A.D.1992).

Construction of new incinerator changed existing hazardous waste facility into "new facility" requiring submission of Environmental Impact Statement (EIS). Matter of Hazardous Waste Facility Permit No. 0901D21HP01 by Dept. of Environmental Protection to ICI Americas, Inc., 258 N.J.Super. 483, 610 A.2d 420 (A.D.1992).

Taxpayer's expert in assessment appeal for landfill did not consider costs of closure and postclosure maintenance; closed landfill not worthless as value possible if combined with contiguous lot in satisfaction of zoning ordinance coverage requirement. Inmar Associates, Inc. v. Edison Twp., 2 N.J. Tax 59 (Tax Ct.1980).

Municipality was not entitled to stay of approval for construction and operation of sludge dewatering facility at site of existing sewage treatment facility. In Matter of Bergen County Utilities Authority Treatment Works, 92 N.J.A.R.2d (EPE) 27.

7:26-2.10 General engineering design submission requirements

(a) The engineering design submittal requirements set forth in this section are general requirements for all solid waste facilities. Additional engineering design submittal requirements for sanitary landfills shall be prepared in accordance with the requirements of N.J.A.C. 7:26-2A.6. Additional engineering design submittal requirements for thermal destruction facilities, solid waste transfer stations, materials recover facilities, and composting or co-composting facilities shall be prepared in accordance with the requirements of N.J.A.C. 7:26-2B.4, 2B.5 and 2B.6 except for those facilities as specified in N.J.A.C. 7:26-2.4(c).

(b) The general requirements for the preparation and submittal of engineering designs for all proposed solid waste facilities are as follows:

As amended, R.1983 d.192, effective June 6, 1983.

See: 14 N.J.R. 883(a), 15 N.J.R. 894(c).

1. All maps of the proposed facility shall be prepared in a manner and format consistent with N.J.A.C. 7:1E, Appendix C. The applicant shall submit a minimum of three complete sets of the application for small-scale facilities and five complete sets of the application for all other types of proposed solid waste facilities. Additional complete sets may be required based upon the type, scale, location, and potential environmental impacts of the proposed facility;

2. Individual engineering drawing sheets shall not be larger than 30 inches by 42 inches or smaller than 24 inches by 36 inches in size.

3. Each drawing sheet shall bear the date of preparation and the raised seal of the New Jersey licensed professional engineer responsible for the preparation of the design.

4. A key map of the engineering drawings, delineating the general location of the proposed facility, shall be prepared and submitted as part of the engineering design. The key map shall be plotted on a seven and one-half minute United States Geological Survey topographical quadrangle. The quadrangle shall be the most recent revision available, shall include the name of the quadrangle and shall delineate a minimum of three miles from the perimeter of the proposed facility boundaries. One or more maps may be utilized where necessary to insure clarity of the information submitted. The key map shall depict the following:

i. All surface waters, coastal zone areas as defined in N.J.S.A. 13:19-1 et seq.; wetlands as defined in N.J.S.A. 13:9A-1 et seq.; water supply wells and reservoirs; FW-1 and FW-2 Trout Production waters as defined in N.J.A.C. 7:9B; wild, scenic, recreational or developed recreational rivers designated pursuant to the Natural Wild and Scenic River Act 16 USCA 1271 et seq. or the New Jersey Wild and Scenic River Act N.J.S.A. 13:8-45 et seq., and all 100 year floodway and flood hazard areas as delineated in N.J.A.C. 7:13:

ii. General zoning designations within one mile of the perimeter of the proposed facility's boundary:

iii. All main service corridors, transportation routes and main access roads that will be used as routes of traffic flow; and

iv. All airports and runways.

5. A vicinity map prepared in accordance with (b)2 above shall be prepared and submitted as part of the engineering design. The vicinity map shall have a minimum scale of one inch equals 400 feet (1" = 400') with contour intervals shown at 20 foot intervals. The vicinity map shall delineate an area of one mile from the perimeter of the property line of the proposed facility. Contour elevations and vertical and horizontal locations shall be based on the National Geodetic Vertical Datum 1929 (Mean Sea Level Datum 1929) and keyed into the New

Jersey Plan Coordinated Datum 1927. One or more vicinity maps may be utilized to ensure clarity of the information submitted. The vicinity maps may be an enlargement of a United States Geological Survey topographical quadrangle or a recent aerial photographic. The vicinity map shall depict the following:

i. All buildings and structures including the layout of the buildings which will comprise the proposed facility;

ii. The boundaries of the proposed facility;

iii. The limits of the actual disposal operations within the boundaries of the proposed facility;

iv. Lots and blocks taken from the tax map for the site of the proposed facility and all contiguous properties;

v. The specific local zoning designation within 1,000 feet of the perimeter of the proposed facility's boundary; and

vi. The location of all existing and proposed utility lines, pipelines or other utility structures which will service the facility, including, but not limited to, the stormwater drainage system, sanitary sewer system, water supply system, and energy system.

6. A site plan map, delineating the existing and final as-built contours of the site of the proposed facility, shall be prepared in accordance with (b)2 above and be submitted as part of the engineering design. The site plan map shall be prepared in accordance with the "Classification Standards of Accuracy and General Specifications of Geodetic Control Survey" published by the U.S. Department of Commerce, 1980 and the New Jersey Map Filing Law, N.J.S.A. 46:23-9, at a minimum scale of one inch equals 200 feet (1" = 200') with contour intervals shown at two foot intervals. Contour elevations and vertical and horizontal locations shall be based on the National Geodetic Vertical Datum of 1929 (Mean Sea Level Datum 1929) and keyed into the North American Datum of 1983. The site plan map shall depict the following:

i. The legal boundaries of the facility as determined by a survey performed by a licensed New Jersey Land Surveyor. All vertical and horizontal points shall be located utilizing Third Order, Class I for property survey and Third Order, Class II for remaining points, in accordance with the "Classification Standards of Accuracy and General Specification of Geodetic Control Survey" published by the U.S. Department of Commerce, 1980. A copy of the deed of record or other document proving ownership shall accompany the site map. If the property is leased by the applicant, a copy of the lease shall accompany the site map. In those cases where the applicant is scheduled to take title to the property or sign a lease for the property at a later date, submit a timetable for same;

ii. The total acreage of the facility property and the total acreage of the actual disposal operations;

iii. The boundaries of the area to be used for disposal operations; and

iv. The layout of all buildings, access roads, internal routes of traffic flow and environmental controls, as they will appear at the site.

7. A geotechnical and soils report shall be prepared and submitted as part of the engineering design. The report shall include the following:

i. A soils map, published by the United States Department of Agriculture, Soil Conservation Service, depicting the site of the proposed facility and the area within one half mile from the perimeter of the facility; and

ii. A geologic map based on published or unpublished material and mapping available from the United States Geological Survey and New Jersey Geological Survey or unpublished mapping acceptable to the New Jersey Geologic Survey depicting the area within one mile from the perimeter of the facility.

8. An engineering report shall be prepared and submitted as part of the engineering design. The engineering report shall include the following:

i. A descriptive statement and detailed specifications of all proposed waste disposal system processes;

ii. A description of the installation methods and procedures and the scheduling of events for construction of the facility;

iii. A description of the rated and proposed design capacity of the facility in terms of tons and cubic yards per day and tons per hour to be disposed of at the facility;

iv. A description of the daily number and types of vehicles which will transport solid waste to the facility and, if applicable, the reclaimed material and waste from the facility;

v. A presentation of the results and calculations, clearly noted, of all required design testing; and

vi. A projection of the life expectancy of the facility.

9. An operations and maintenance (O and M) manual shall be prepared and submitted as part of the engineering design. The O and M manual shall include the following:

i. A description of the proposed methods of facility operation, including, but not limited to, the following:

(1) Hours of operation;

(2) Types of equipment (indicate capacity and number of units);

(3) Implementation schedule for the solid waste facility;

(4) Monitoring;

(5) Security; and

(6) Methods to be employed to meet the operational requirements of N.J.A.C. 7:26-2.11.

ii. An inspection plan, which shall include a schedule for inspecting all applicable major aspects of facility operation necessary to ensure compliance with the requirements of this subchapter and N.J.A.C. 7:26-2A or 2B, as applicable. The frequency of inspection shall be based on the rate of potential equipment deterioration or malfunction and the probability of an adverse incident occurring if the deterioration or malfunction goes undetected between inspections. Areas of the facility subject to spills such as loading and unloading areas and areas in which significant adverse environmental or health consequences may result if breakdown occurs, shall be inspected daily, when in use. The plan shall include a schedule for inspecting, monitoring, safety and emergency equipment, security devices and process operating and structural equipment. The plan shall identify the types of problems which are to be looked for during the inspection and the frequency of inspection:

(1) The inspection plan shall include a program for detecting and preventing the disposal of regulated hazardous wastes. This program shall include, at a minimum, but not be limited to, the following:

(A) Random inspection of incoming loads unless the owner or operator takes other steps to ensure that incoming loads do not contain regulated hazardous waste or PCB hazardous waste;

(B) Records of any inspections;

(C) Training of facility personnel to recognize regulated hazardous waste; and

(D) Notification procedures to report to the Department any discovery of regulated hazardous waste at the facility.

iii. A maintenance plan, which shall include an analysis of all applicable major aspects of the facility operation based on applicable industry established rates of potential equipment deterioration or malfunction if available, an analysis of spare parts inventory needs, schedules for anticipated repairs and maintenance contracts with local equipment dealers to supply standby or emergency equipment;

iv. A safety plan which shall include a description of the proposed measures to protect facility and other personnel from injury during operation;

v. A description of the proposed measures to handle unusual peak loadings which may exceed designed facility capacity;

vi. A description of the proposed measures to handle incoming waste flow during periods of short term facility shutdown for normal equipment repairs and also for periods of longer term facility shutdown for more extensive repairs.

10. The Department will review the O and M manual and notify the applicant of any deficiencies which need to be addressed. The necessary changes shall be incorporated into a final O and M manual. The final O and M manual shall be submitted to the Department subsequent to completion of the construction phase, but at least 60 days prior to initiating full-scale operations. Full-scale facility operations shall not be initiated before formal Departmental approval of the final O and M manual.

11. A landscaping plan delineating the existing site vegetation to be retained, and discussing the methods to be employed in order to ensure protection during the clearing, grading and construction phases of the project and the supplemental vegetation to be planted, shall be submitted as part of the engineering design. Information relating to vegetation type, location and purpose, such as for buffer, screening or aesthetics, and schedules for planting, shall accompany the plan. Facility exterior grounds shall be landscaped in a manner which enhances the visual appearance of the property.

12. Foundation sources and basis documents supporting all factual information submitted and all conclusions drawn, shall be identified.

New Rule, R.1985 d.65, effective February 19, 1985.

See: 16 N.J.R. 440(a), 17 N.J.R. 446(a).

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

This section was recodified without change to 2.12.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2144(a), 28 N.J.R. 5248(a).

In (a), deleted two references to exemptions under N.J.A.C. 7:26-2.4(c) and amended the references made to 7:26-2B; rewrote (b)1; in (b)4i, amended N.J.A.C. reference; in (b)5vi, added reference to storm water drainage, sanitary sewer, water supply, and energy systems; in (b)6, substituted "North American Datum of 1983" for "New Jersey Plane Coordinate Datum of 1927"; deleted (b)7iii; in (b)9, amended reference to manual from preliminary manual; added (b)9ii(1); and in (b)10, amended reference to manual from preliminary manual.

Administrative change.

See: 30 N.J.R. 3948(a).

7:26-2.11 General operational requirements

(a) The operational requirements identified in this section are general requirements for all solid waste facilities. Additional operational requirements for sanitary landfills are set forth in N.J.A.C. 7:26-2A.8. Additional operational requirements for thermal destruction facilities are set forth in N.J.A.C. 7:26-2B.8.

(b) The general operational requirements for all solid waste disposal facilities are as follows:

1. Within each 24 hour period the operator shall clean each area where waste has been deposited or stored,

except for those storage areas at thermal destruction facilities which are designed for multiple day storage capability and as exempted by (b)10 below; for sanitary landfills, all areas where waste has been deposited shall be covered with the appropriate cover material except as permitted by (b)10 below;

2. No waste shall be stored overnight at any facility without effective treatment to prevent odors associated with putrefaction;

3. Facility property surrounding the actual disposal area shall be maintained free of litter, debris, and accumulations of unprocessed waste, process residues and effluents. Methods of effectively controlling wind-blown papers and other lightweight materials such as fencing shall be implemented at all facilities;

4. Methods of effectively controlling dust shall be implemented at all facilities in order to prevent offsite migration;

5. The operation of the facility shall not result in odors associated with solid waste being detected off site in any area of human occupancy;

6. The operator shall maintain all facility systems and related appurtenances in a manner that facilitates proper operation and minimizes system downtime. When requested, the operator of the facility shall furnish proof that provisions have been made for the repair and replacement of equipment which becomes inoperative;

7. An adequate water supply and adequate fire-fighting equipment shall be maintained at the facility or be readily available to extinguish any and all types of fires. Fire-fighting procedures as delineated in the approved O and M manual, including the telephone numbers of local fire, police, ambulance and hospital facilities, shall be posted in and around the facility at all times;

8. The operator shall effectively control insects, other arthropods and rodents at the facility by means of a program in compliance with the requirements of the New Jersey Pesticide Control Code, N.J.A.C. 7:30, and implemented by an applicator of pesticides, certified in accordance with the New Jersey Pesticide Control Code, N.J.A.C. 7:30;

9. Only solid waste vehicles properly registered, pursuant to N.J.A.C. 7:26-3, with the Division of Solid and Hazardous Waste, unless exempt from the registration requirement pursuant to N.J.A.C. 7:26-3.3, and displaying the appropriate registration number and solid waste decal shall be admitted for loading or unloading of any solid waste at the facility. Solid waste vehicles exempt from registration shall not be admitted to the tipping area when registered, commercial type solid waste vehicles including, but not limited to, compactor trucks, trailers or any solid waste vehicle that tilts or uses other mechanical means to discharge its solid waste are being unloaded, or when other heavy equipment is being operated in the tipping

area. The facility shall be sufficiently staffed to ensure that this requirement is not violated;

10. The operator shall designate a secure area under the facility's control, located a safe distance from the tipping area, where solid waste may be unloaded from those solid waste vehicles which are exempt for the registration requirements of N.J.A.C. 7:26-3.3. Bulky items and recyclable materials may be provided for in this manner. The operator may establish a separate secure area, with the approval of the Department, for the drop-off and/or transfer of asbestos and asbestos-containing waste material (ACWM) separate and apart from the disposal areas described in this paragraph or in N.J.A.C. 7:26-2A.8(l)2i and ii. The operator shall ensure that the container used for drop-off and/or transfer is fully enclosed and located on an impermeable surface. No person other than facility personnel or a licensed commercial asbestos removal contractor may load the asbestos or ACWM into the container used for drop-off and/or transfer. The facility operator shall be responsible for the sanitary conditions and orderly operation of the designated areas. It shall be the operator's responsibility to remove the bulky items, recyclable materials, ACWM or other waste from the designated area at a frequency so as not to exceed the storage capacity of the areas;

11. The operator shall at all times comply with the conditions of the SWF permit, as well as all other permits or certificates required and issued by the Department or any other governmental agency. The operator shall not receive, store, handle, process or dispose of waste types not specifically identified in that facility's SWF permit or other permit or certificate issued by the Department;

12. The operator shall designate a secure area under the facility's control, located a safe distance from the active disposal area, where solid waste, including suspected hazardous waste, which the facility is not permitted to receive shall be deposited until the operator receives instruction from the Department as to the proper disposal of the unpermitted waste;

13. The operator shall maintain a record of the quantity of each authorized waste type accepted for disposal, in accordance with N.J.A.C. 7:26-2.13 and 3.2. In the event that the facility is exempt from the use of scales to physically weigh the waste, volume to weight conversions shall be made by means of formulae furnished by the Department. Transfer stations and materials recovery facilities shall use the formula in N.J.A.C. 7:26-2B.

14. Departmental inspectors shall have the right to enter and inspect any building or other portion of the facility, at any time. This right to inspect includes, but is not limited to:

- i. Sampling any materials on site;
- ii. Photographing any portion of the facility;

iii. Investigating an actual or suspected source of pollution of the environment;

iv. Ascertaining compliance or non-compliance with the statutes, rules or regulations of the Department, including conditions of the facility's SWF permit or other permit or certificate issued by the Department; or

v. Reviewing and copying all applicable records, which shall be furnished upon request and made available at all reasonable times for inspection.

15. The quantity of waste received by the facility operator shall not exceed the system's designed handling, storage, processing or disposal capacity as identified in that facility's SWF permit or other permit certificate. The designed processing and disposal capacity approved within any solid waste facility permit, other permit certificate or approval conditions as a ton per day operational maximum shall be inclusive of all solid waste received at the facility as well as all tonnages of source separated recyclables received;

16. The facility shall be operated in a manner that employs the use of the equipment and those techniques for the receipt, storage, handling, processing or disposal of incoming waste and process residues that are specifically authorized by the facility's SWF permit;

17. The operator shall provide a means of removing mud, solid waste or other debris from the tires of all vehicles. Vehicle tires shall be cleaned prior to the vehicle's departure from the facility's boundaries; and

18. The approved final O and M manual shall be maintained at the facility. A written description of any proposed changes to the approved, final O and M manual shall be submitted to the Department for review. These proposed changes shall not be implemented at the facility until the Department approves the changes.

Amended by R.1974 d.234, effective August 21, 1974.

See: 6 N.J.R. 343(c).

Amended by R.1978 d.72, effective February 27, 1978.

See: 9 N.J.R. 459(d), 10 N.J.R. 146(a).

Amended by R.1983 d.570, effective December 5, 1983.

See: 15 N.J.R. 660(a), 15 N.J.R. 2040(b).

(p) deleted.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Repealed rule was general operational requirements for incinerators, transfer stations, processing facility and resource recovery facilities.

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Required that vehicles be registered as "solid waste vehicles" in (b)9, at (b)10, operator's designation of area for exempt solid waste vehicles made mandatory.

Amended by R.1993 d.508, effective October 18, 1993.

See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Emergency Amendment R.1996 d.114, effective January 26, 1996 (operative January 29, 1996, to expire March 26, 1996).

See: 28 N.J.R. 1305(a).

Adopted concurrent proposal, R.1996 d.202, effective March 26, 1996.

See: 28 N.J.R. 1305(a), 28 N.J.R. 2380(a).

Added (b)19 and (c).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (b)9, amended Division reference and inserted reference to a solid waste decal; in (b)10, inserted third through fifth sentences, inserted reference to ACWM waste in seventh sentence, and deleted last sentence prohibiting scavenging.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Deleted (b)19 and (c). Readopted provisions of Emergency Amendment R.1997 d.404 without change.

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

Under Tort Claims Act (N.J.S.A. 59:1-1 et seq.) State agencies and counties are immune from nuisance claims in suit regarding the regulations of a landfill; private operator of landfill does not share in public entities immunity. *East Brunswick v. Bd. of Freeholders of Middlesex Co.*, 224 N.J.Super. 44, 539 A.2d 756 (Ch.Div.1987).

7:26-2.12 Generator requirements for disposal of asbestos containing waste materials

(a) Generators of asbestos-containing waste materials, including sources subject to 40 C.F.R. 61.142, 61.144, 61.145, 61.146, and 147, shall comply with the standards for waste disposal at 40 C.F.R. 61.149 and 40 C.F.R. 61.150.

(b) Generators of regulated asbestos containing material shall submit a written notification of intention to demolish in accordance with (d) and (e) below at least 10 days prior to beginning the demolition activity.

(c) Generators of regulated asbestos containing material shall submit a written notification to renovate in accordance with (d) and (e) below at least 10 days prior to beginning the renovation activity unless the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is:

1. Less than 260 linear feet on pipes or 160 square feet on other facility components; or

2. Less than 35 cubic feet of facility components where the length or area could not be measured prior to stripping, removal, dislodging, cutting, or drilling.

(d) The written notification required by (b) and (c) above shall include:

1. Name, address and telephone number of the generator.

2. Quantity and nature of waste to be disposed;

3. Name, address, telephone number, and New Jersey Department of Environmental Protection registration number of the transporter;

4. Name and address of the sanitary landfill at which disposal will occur;

5. Date and time of disposal; and

6. A copy of any written notification required by 40 CFR 61.145 to 61.155.

(e) The written notification required by (b) and (c) above shall be submitted to:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

PO Box 414

Trenton, NJ 08624-0414

(f) The Department may allow less than 10 days prior notification, where emergency circumstances require.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Repealed rule was "Guidelines and criteria for the preparation of engineering designs".

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

At (b)3., "collector-hauler" replaced by "transporter"; at 4. "landfill" replaced by "sanitary landfill", CFR cite corrected and address changed at (c).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), inserted C.F.R. references and recodified a portion of (a) as (b); recodified former (b) through (d) as (d) through (f); inserted new (c); in (d)3, amended subsection references and inserted reference to telephone number and waste decal; and in (e), amended subsection references.

Case Notes

Proposed sludge management facility was "facility" within meaning of the Solid Waste Management Act; sewage sludge to be handled by facility was "solid waste" within meaning of the Act; the Act preempted local zoning and planning regulations. *Ocean County Utilities Auth. v. Planning Bd. of Berkeley Twp., Ocean Co.*, 221 N.J.Super. 621, 535 A.2d 550 (Law Div.1987) affirmed 223 N.J.Super. 461, 538 A.2d 1307.

DEP complied with all Federal and State statutory and regulatory provisions in issuance of Air Pollution Control Permit and Solid Waste Permit to applicant. In the Matter of NJPDES Permit No. N.J. 0055247, et al., 216 N.J.Super. 1, 522 A.2d 1002 (App.Div.1987) certification denied 108 N.J. 185, 527 A.2d 1390 (1987).

7:26-2.13 Solid waste facility; records

(a) Each solid waste facility permittee shall maintain a daily record of wastes received. The record shall include:

1. Identification of the solid waste facility by name and facility identification number;

2. Identification of the transporter by the Department of Environmental Protection registration number assigned and solid waste decal number;

3. The cubic yard, tonnage or gallon capacity of the solid waste vehicle or solid waste container for each of three categories of wastes as follows:

i. Solids: Wastes ID 10 through 27 received (in cubic yards or tons);

ii. Septage and liquid sewage sludges: Waste ID 73 and 74 received (in gallons);

iii. Bulk liquid and semiliquids: Waste ID 72 received (in gallons);

4. Date and time of delivery to the facility;

5. The license plate number and State initials of the solid waste vehicle; and

6. The place of origin of the waste identified by municipality, county and state or in the case of the waste from a transfer station or materials recovery facility, the facility ID number of the transfer station shall also be listed.

7. In addition to the information required in (a)1 through 6 above, sanitary landfills which accept asbestos and asbestos-containing waste materials shall:

i. Maintain a separate daily record of the asbestos and asbestos-containing waste received, which shall include:

(1) Date and time of delivery;

(2) Identification of the transporter by name and by the New Jersey Department of Environmental Protection registration number assigned to the transporter;

(3) Quantity in cubic yards and/or tons of the waste;

(4) Name and address of the generator; and

(5) For rejected shipments, the reason for rejection and disposition of the shipment after rejection; and

ii. By the 20th day of every month, submit a copy of the daily record required by (a)7i above, covering the asbestos disposal activity of the previous calendar month. The information shall be submitted to:

New Jersey Department of Environmental Protection
 Division of Solid and Hazardous Waste
 Bureau of Resource Recovery and Technical Assistance
 PO Box 414
 Trenton, New Jersey 08625-0414

8. In addition to the requirements of (a)1 through 7 above, transfer stations and materials recovery facilities subject to this section which receive more than 31,200 tons of solid waste annually shall install and operate computerized scales for the reporting requirements in N.J.A.C. 7:26-2.13. Transfer stations and materials recovery facilities which do not have scales shall report data in accordance with N.J.A.C. 7:26-2.11(b)13.

(b) The daily record shall be maintained at the operating facility on forms provided by the Department or duplication of same, or on systems acceptable to the Department, shall be kept for five years, and shall be available for inspection by representatives of the Department, county lead agency certified by the Department pursuant to N.J.S.A. 26:3A-2 for any county from which solid waste is received, or the local health department at any time during normal working hours.

(c) The information required to be recorded in the daily record, as set forth in (a) above, shall be supplied by the transporter to the facility operator and by the facility weighmaster or operator on a waste origin/disposal (O and D) form (or duplication of same). Where processing takes place at a transfer station or materials recovery facility prior to delivery to a designated district facility pursuant to N.J.A.C. 7:26-6, the waste remaining after processing shall be designated within the O and D form and daily record as the same waste type as originally received at the transfer station or materials recovery facility. At no time may processing be used to change the original waste type designation of outgoing solid waste from a transfer station or materials recovery facility. Further, at no time may ID 27 solid waste be subjected to mechanized processing, such as grinding, shredding or baling, at transfer stations or materials recovery facilities, such that the physical appearance of the material is altered prior to disposal at a designated district facility.

1. An approved O and D form shall be provided by the Department to each registered transporter. The transporter shall thereafter duplicate the form for use with each load of solid waste.

2. Prior to disposing of the solid waste, the transporter shall complete the O and D form and sign it, thereby certifying the accuracy of the information provided; and

3. The facility operator shall verify that the form has been completed by a registered transporter, that the waste as identified by the transporter may be disposed of at the facility in compliance with the host District Solid Waste Management Plan and the facility's registration, and, where applicable, the facility's computer recording of scale data is in conformance with the information supplied, and sign the completed form.

4. The facility operator shall retain all O and D forms for a minimum of one year and shall make them available for inspection by representatives of the Department or the local health department at any time during normal working hours.

5. If an O and D form is not completed and signed by a registered transporter for each solid waste vehicle, or if the waste disposal would not be in compliance with the facility's registration, as required in (c)3 above, the facility operator shall deny the transporter the right to dispose of the solid waste at the facility.

(d) The following solid waste collection and disposal operations are exempt from complying with the provisions of (c) above:

1. Noncommercial industrial facilities which dispose of only solid waste generated by that industrial firm;
2. Municipally operated facilities which accept only solid waste which is collected by that municipality's transporters and which is generated within that municipality;
3. Sludge farming operations which accept only ID 12 solid waste and which report to the Division of Water Quality;
4. Recycling facilities which accept only recyclable materials which have been separated at the point of generation for sale or reuse; and
5. Operations exempt from registration pursuant to N.J.A.C. 7:26-3.3(a).

(e) Monthly summaries of wastes received shall be submitted by the owner/operator of each facility to the Division of Solid and Hazardous Waste, Bureau of Recycling and Planning and the Solid Waste Coordinator for the district of destination on forms provided by the Department (or duplication of same), no later than 20 days after the last day of each month.

1. All solid waste facilities shall include the following within the monthly summary:
 - i. The tonnages and types of solid waste received by origin from each county (including municipality) and out-of-State source;
 - ii. The tonnages and types of solid waste returned to the county or state of origin by facility of receipt;
 - iii. The tonnages, types and origin (by county and municipality) of source separated recyclable materials or recyclable materials removed from the waste stream. In cases where recyclable materials are separated from mixed solid waste at the transfer station or materials recovery facility, and hence the origin (by county and municipality) cannot be identified at the time of receipt, the transfer station shall allocate the amount of recyclable materials proportionally to each municipality on the basis of the total amount of solid waste received for the calendar month;
 - iv. The identification of end-markets, manufacturers or recycling centers by specific name and location used for the materials designated as recyclable materials and the amount of materials sent to each specific end-market, manufacturer or recycling center. The requirements for transportation to, and identification of, end-markets, manufacturers, and recycling centers shall be the same as at N.J.A.C. 7:26A;
 - v. The tonnage and types of recyclable materials being stored at the transfer station or materials recovery facility at the end of the reporting month;

(f) Any certified county or local health agency certified by the Department pursuant to N.J.S.A. 26:3A-2 or a local health department authorized to perform solid waste enforcement which seeks to obtain customer lists for enforcement purposes, shall comply with the procedures at N.J.A.C. 14:3-10.15(b)4.

(g) Waste identification and definition of solids includes the following:

1. Solid wastes; waste ID number and definitions:
 - i. 10 Municipal (household, commercial and institutional): Waste originating in the community consisting of household waste from private residences, commercial waste which originates in wholesale, retail or service establishments, such as, restaurants, stores, markets, theatres, hotels and warehouses, and institutional waste material originated in schools, hospitals, research institutions and public buildings.
 - ii. 12 Dry sewage sludge: Sludge from a sewage treatment plant which has been digested and dewatered and does not require liquid handling equipment.
 - iii. 13 Bulky waste: Large items of waste material, such as appliances and furniture. Discarded automobiles, trucks and trailers and large vehicle parts, and tires are included under this category.
 - iv. 13C Construction and demolition waste: Waste building material and rubble resulting from construction, remodeling, repair, and demolition operations on houses, commercial buildings, pavements and other structures. The following materials may be found in construction and demolition waste: treated and untreated wood scrap; tree parts, tree stumps and brush; concrete, asphalt, bricks, blocks and other masonry; plaster and wallboard; roofing materials; corrugated cardboard and miscellaneous paper; ferrous and non-ferrous metal; non-asbestos building insulation; plastic scrap; dirt; carpets and padding; glass (window and door); and other miscellaneous materials; but shall not include other solid waste types.
 - v. 23 Vegetative waste: Waste materials from farms, plant nurseries and greenhouses that are produced from the raising of plants. This waste includes such crop residues as plant stalks, hulls, leaves and tree wastes processed through a wood chipper. Also included are non-crop residues such as leaves, grass clippings, tree parts, shrubbery and garden wastes.
 - vi. 25 Animal and food processing wastes: Processing waste materials generated in canneries, slaughterhouses, packing plants or similar industries, including animal manure when intended for disposal and not reuse. Also included are dead animals. Animal manure, when intended for reuse or composting, is to be managed in accordance with the criteria and standards developed by the Department of Agriculture as set forth at N.J.S.A. 4:9-38.

vii. 27 Dry industrial waste: Waste materials resulting from manufacturing, industrial and research and development processes and operations, and which are not hazardous in accordance with the standards and procedures set forth at N.J.A.C. 7:26G. Also included are nonhazardous oil spill cleanup waste, dry nonhazardous pesticides, dry nonhazardous chemical waste, and residue from the operations of a scrap metal shredding facility.

viii. 27A Waste material consisting of asbestos or asbestos containing waste.

ix. 27I Waste material consisting of incinerator ash or ash containing waste.

(h) Waste identification and definition of liquids include the following:

1. Liquid wastes; waste ID number and definitions:

i. 72 Bulk liquid and semiliquids: Liquid or a mixture consisting of solid matter suspended in a liquid media which is contained within, or is discharged from, any one vessel, tank or other container which has the capacity of 20 gallons or more. Not included in this waste classification are septic tank clean-out wastes and liquid sewage sludge.

ii. 73 Septic tank clean-out wastes: Pumping from septic tanks and cesspools. Not included are wastes from a sewage treatment plant.

iii. 74 Liquid sewage sludge: Liquid residue from a sewage treatment plant consisting of sewage solids combined with water and dissolved materials.

(i) The following waste types have been consolidated under other categories:

1. 11 Institutional (see 10, Municipal);

2. 14 Construction and demolition (see 13, Bulky Waste);

3. 5 Pesticides: (see 27, Dry industrial waste and N.J.A.C. 7:26-8);

4. 16 Hazardous waste containers (see N.J.A.C. 7:26G);

5. 17 Dry hazardous waste (see N.J.A.C. 7:26G);

6. 18 Dry nonhazardous chemical waste (see 27, Dry industrial waste);

7. 19 Junked autos (see 13, Bulky waste);

8. 20 Tires (see 13, Bulky waste);

9. 21 Dead animals (see 25, Animal and food processing waste);

10. 22 Leaves and chopped tree wastes (see 23, Vegetative waste);

11. 24 Tree stumps (see 13, Bulky waste);

12. 26 Oil spill cleanup wastes (see 27, Dry industrial waste and N.J.A.C. 7:26-8);

13. 28 Infectious waste (see N.J.A.C. 7:26-1.4 and the requirements established by the New Jersey Department of Health);

14. 70 Waste oil and sludges (see N.J.A.C. 7:26-8);

15. 71 Semisolid waste oils and sludge (see N.J.A.C. 7:26-8);

16. 75 Pesticide liquids (see 72 Bulk liquid and semi liquids and N.J.A.C. 7:26G);

17. 76 Liquid hazardous waste (see N.J.A.C. 7:26G);

18. 77 Liquid chemical waste (see N.J.A.C. 7:26G);

(j) Solid waste shall be identified at the point of generation. For waste received at a transfer station or materials recovery facility, the transfer station is not the point of generation. Solid waste which is received by a transfer station or materials recovery facility shall retain the ID type identified in the O and D form. The type of solid waste shall not change due to the removal of recyclable materials or the processing of solid waste.

(k) For all waste disposed of within or leaving the district for further transfer, materials recovery or disposal (either in-State or out-of-State), each waste district shall record at a minimum the following information: district of waste origin; the identity of the transfer facility (if applicable); the identity of the final destination facility; the tonnage or cubic yards of waste; the waste type; and the tonnage or cubic yards of any material recycled. This information shall be compiled on forms provided by the Department (or duplication of same) into monthly summaries, which shall be retained for a period of one year or longer in the event of an unresolved enforcement action. Each district shall compile the monthly summaries into an annual report on a form provided by the Department which is to be submitted to the Division of Solid and Hazardous Waste, Bureau of Recycling and Planning, no later than February 1 of the following year. If a district chooses to impose an in-district weighing requirement consistent with N.J.A.C. 7:26-6.10(b)2, to institute a mechanism to ensure the payment of outstanding debt and other financial obligations, the district may gather this information through in-district weighing, but only for the period set forth in N.J.A.C. 7:26-6.10(b)2. Districts which do not conduct in-district weighing shall develop an alternate recordkeeping method to ensure that accurate information is collected on a monthly basis as set forth above.

(l) The operator of a designated district weighing facility shall ensure that all weighing is conducted in a manner that facilitates proper operation and minimizes systems interruptions.

R.1976 d.303, effective November 1, 1976.
See: 8 N.J.R. 374(d), 8 N.J.R. 509(a).

Amended by R.1978 d.72, effective February 27, 1978.
See: 9 N.J.R. 459(d), 10 N.J.R. 146(a).
Amended by R.1983 d.192, effective June 6, 1983.
See: 14 N.J.R. 883(a), 15 N.J.R. 894(c).
(a)5 and new (c) added; existing (c)-(e) recodified (d)-(f).
Amended by R.1983 d.570, effective December 5, 1983.
See: 15 N.J.R. 660(a), 15 N.J.R. 2040(b).
(d)-(f) Substantially amended.
Emergency Amendment, R.1984 d.148, effective April 2, 1984.
See: 16 N.J.R. 930(a).
(a)6 and new (c) and (d) added, existing (c)-(f) redesigned (e)-(h); inspection by local health department added to (b), monthly summary submittal deleted.
Adopted concurrent proposal, R.1984 d.231, filed June 4, 1984.
See: 16 N.J.R. 930(a), 16 N.J.R. 1497(a).
Provisions of emergency amendment R.1984 d.148 readopted with technical and substantive changes, requiring solid waste transporters to provide landfill operators with documentation of origin and contents of waste load.
Amended by R.1985 d.65, effective February 19, 1985.
See: 16 N.J.R. 440(a), 17 N.J.R. 446(a).
(a)7 added.
Correction: Added text in (a) "resource recovery facilities and transfer stations".
See: 18 N.J.R. 983(a).
Amended by R.1988 d.73, effective February 16, 1988.
See: 19 N.J.R. 171(a), 20 N.J.R. 393(a).
Section title was Sanitary landfills, resource recovery facilities and transfer stations; records.
In (a), the above was repealed and "Each solid waste facility permit-tee" was substituted.
Correction: Added text to (g)1vi "oil spill cleanup waste, dry nonhazardous pesticides, dry nonhazardous".
See: 20 N.J.R. 1958(b).
Emergency Amendment, R.1988 d.547, effective October 26, 1988 (expires December 25, 1988).
See: 20 N.J.R. 2817(a).
Added text to (g)1 in "Also included are ...".
Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.
See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).
Provisions of emergency amendment R.1988 d.547, readopted without change.
Amended by R.1989 d.216, effective April 17, 1989.
See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).
Added tonnage as an available description for the capacity of a solid waste vehicle; replaced vehicles with solid waste vehicle and changed 15th to 20th day of month for submitting daily records; changed address.
Public Notice: Notice of receipt of petition for rulemaking.
See: 23 N.J.R. 2187(c).
Action on Petition for Rulemaking: Amend Type 27 waste and amend certain classes of waste from interdistrict and intradistrict waste flow orders.
See: 23 N.J.R. 2428(b).
Amended by R.1993 d.27, effective January 4, 1993.
See: 24 N.J.R. 1995(a), 25 N.J.R. 92(a).
Revised the description of dry industrial waste, ID 27, to specifically state that the residue from the operations of a scrap metal shredding facility is included within this class of solid waste.
Amended by R.1993 d.508, effective October 18, 1993.
See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).
Emergency Amendment R.1996 d.114, effective January 26, 1996 (operative January 29, 1996, to expire March 26, 1996).
See: 28 N.J.R. 1305(a).
Adopted concurrent proposal, R.1996 d.202, effective March 26, 1996.
See: 28 N.J.R. 1305(a), 28 N.J.R. 2380(a).
Amended by R.1996 d.500, effective October 21, 1996.
See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
In (a)2, added reference to solid waste decal number; in (a)7 and (e), amended Department and Division references; and added (g)viii and (g)ix.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).
See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).
Deleted (a)3ii; recodified existing (a)3iii and (a)3iv as (a)3ii and (a)3iii; rewrote (a)8; deleted (c)6; deleted (e)1vi through (e)1viii and (e)2; and added (k) and (l). Readopted provisions of Emergency Amendment R.1997 d.404 with changes effective December 1, 1997. Administrative change.
See: 30 N.J.R. 3948(a).

Law Review and Journal Commentaries

Environmental Law—Administrative Procedure—Solid Waste. P.R. Chenoweth, 134 N.J.L.J. No. 13, 54 (1993).

Relief from Exorbitant Garbage Disposal Costs. Sandra T. Ayres, 138 N.J.L.J. No. 8, S22 (1994).

Case Notes

Licensed solid waste hauler violated regulatory recordkeeping requirements by transporting out of country waste to landfill and for failing to properly record origin of waste on an origin and disclosure form. *Middlesex County Dept. of Health v. Importico*, 315 N.J. Super. 397, 718 A.2d 727 (N.J. Super. L. 1998).

Waste hauler who had permit to haul its own self-generated construction waste, and who accepted and hauled others' construction waste in violation of that permit, would suffer permit revocation. *Division of Solid Waste Management v. Loughran*, 96 N.J.A.R.2d (EPE) 367.

Solid waste collector violated site-specific waste flow directives and interim relief orders; certificate of public convenience and necessity revoked and penalties assessed. *Board of Regulatory Commissioners v. Jersey Carting, Inc.*, 93 N.J.A.R.2d (EPE) 56.

7:26-2.14 Solid waste facility performance partnership agreements

(a) Any thermal destruction facility, sanitary landfill, materials recovery facility, transfer station, municipal solid waste composting or co-composting facility processing greater than 100 tons per day may negotiate a 15-year solid waste facility performance partnership agreement (SWFPPA) with the Department.

1. The eligibility requirements for a SWFPPA follow:

i. The solid waste facility shall have obtained all applicable permits and licenses required by the Department and shall have been in operation for at least one year;

ii. The solid waste facility shall be in substantial compliance with all permit conditions; and

iii. The solid waste facility shall not have a history of substantial noncompliance with environmental obligations as defined in (r) below.

2. The Department shall convene an informational meeting at least annually with the owners and/or operators of the facilities listed in (a) above to outline the SWFPPA planning process.

(b) The SWFPPA shall include the following:

1. A discussion of the operating conditions and requirements in the facility's existing permit, their associated environmental and/or agricultural impacts and the

potential to improve operating conditions over those required by the permit. This discussion shall, at a minimum, address:

- i. Facility storage requirements;
- ii. Litter control;
- iii. Fugitive dust controls;
- iv. Odor controls;
- v. Noise controls;
- vi. Equipment and facility on-line availability;
- vii. On-site vehicle routing and traffic; and
- viii. Off-site vehicle routing;

2. A discussion of the long-term environmental goals and milestones selected by the applicant for inclusion in the SWFPPA. The applicant shall select those goals and milestones which will reduce the existing environmental and operational impacts of the facility, emissions and discharges from the facility and achieve Federal, State or solid waste management district pollution prevention goals. The applicant shall select from the goals and milestones listed below and/or propose alternative goals and milestones:

- i. An accounting of the inputs and outputs of materials at the facility, including estimates of the quantities of raw materials used and wastes generated at each source;
- ii. Baselines to be utilized to measure progress towards achieving the goals and milestones established in the SWFPPA;
- iii. Methods to increase the recovery of materials from solid waste through the addition of manual or mechanical materials recovery systems in furtherance of State and solid waste management district recycling goals;
- iv. Methods to reduce levels of discarded products containing heavy metals, particularly those containing cadmium, lead and mercury from the solid waste disposal stream. This reduction shall be based on a materials balance for the facility;
- v. Methods to reduce levels of discarded products containing volatile organic compounds from the solid waste disposal stream. This reduction shall be based on a materials balance for the facility;
- vi. Methods to reduce energy usage by the facility, including both the facility equipment usage and vehicle transportation. This reduction shall be based on an energy balance for the facility and vehicle transportation;
- vii. Methods to eliminate or reduce levels of hazardous substances used by facility through material or product substitution or other means;

viii. Methods to reduce the quantity of household hazardous waste, small quantity generator waste and/or universal waste disposed of by the solid waste facility;

ix. Formulation of a landfill mining plan to extract valuable resources for recycling, reduce the size of the landfill footprint, reclaim additional disposal capacity or otherwise improve resource management;

x. Methods to reduce the likelihood of accidental spills or releases of hazardous substances;

xi. Methods to reduce the level of the facility's process residue and/or the development of programs to more effectively treat or use residue as a product;

xii. Methods to reduce water usage by the facility;

xiii. Methods to reduce wastewater discharges by the facility; and

xiv. Methods to reduce direct and/or fugitive air emissions from the facility;

3. A schedule for improving operational conditions identified pursuant to (b)1 above and specific methodologies for effecting the improvements;

4. A schedule for achieving the goals and milestones established pursuant to (b)2 above;

5. A discussion of the policies and procedures established to create a compliance assurance program, including:

i. Internal inspection schedules to ensure that all site conditions and operations are in compliance with internal assurance policies and standard operating procedures and environmental obligations;

ii. Procedures for correcting actual noncompliance observed during inspections; and

iii. Procedures for reporting noncompliance to the appropriate facility official and tracking corrective actions;

6. A discussion explaining the facility specific data and information and direct measurement utilized to develop the goals and milestones established pursuant to (b)2 above. This discussion may also include information based on reasonable calculations and estimates from the best available data and/or experience and judgment; and

7. The SWFPPA shall be developed for a 15 year period, with major goals and milestones scheduled to be reviewed on a five-year basis in accordance with the procedure established at (l) below.

(c) At least one year prior to the submission of a draft SWFPPA pursuant to (d) below, the SWF permittee and representatives from the Department shall meet to develop the long-term environmental goals and milestones of the specific SWFPPA and the timeframe for submission.

(s) A solid waste facility classified as a level 1 facility pursuant to (f)3i above may be eligible for a facility wide permit if the Department formally adopts a facility wide permit program.

R.1982 d.433, effective December 6, 1982.
See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a).
Repealed by R.1987 d.235, effective June 1, 1987.
See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

This section was applicability.
New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
Administrative change.
See: 30 N.J.R. 3948(a).

SUBCHAPTER 2A. ADDITIONAL, SPECIFIC DISPOSAL REGULATIONS FOR SANITARY LANDFILLS

7:26-2A.1 Scope and applicability

(a) This subchapter shall constitute the rules of the Department governing the design, construction, operation, maintenance, closure and post-closure care of sanitary landfills.

(b) The requirements of this subchapter are in addition to the general engineering design submission requirements in N.J.A.C. 7:26-2.10 and the general operational requirements in N.J.A.C. 7:26-2.11.

(c) This subchapter shall apply to the following facilities:

1. All newly proposed sanitary landfills and all existing sanitary landfills proposing to expand their existing operations onto previously unfilled permitted areas; and
2. Any existing sanitary landfills operating as an open dump or in an environmentally unsound manner which the Department determines needs to be environmentally upgraded.

(d) This subchapter does not apply to hazardous waste landfills. See N.J.A.C. 7:26G.

(e) The provision of this subchapter and N.J.A.C. 7:26-2 shall not be interpreted as permitting the disposal of domestic sewage, sewage sludge, or septage in any manner other than that prescribed by law.

Amended by R.1996 d.500, effective October 21, 1996.
See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

7:26-2A.2 Construction

These rules shall be liberally construed to permit the Department to discharge its statutory functions.

Case Notes

Solid Waste Management Act and regulations preempt municipal zoning ordinance with respect to construction of sanitary landfill access road; construction approval by Department proper. *Chester Twp. v. Dept. of Environmental Protection*, 181 N.J.Super. 445, 438 A.2d 334 (App.Div.1981).

7:26-2A.3 Purpose

(a) This subchapter is promulgated for the following purpose:

1. To establish additional engineering design submission requirements for sanitary landfills;
2. To establish requirements and standards for the design and construction of sanitary landfills to insure that adverse impacts are minimized and controlled and that pollution of the environment is prevented; and
3. To establish additional requirements for the operation, maintenance, inspection and monitoring of sanitary landfills to ensure the proper operation of the sanitary landfill so as to minimize and control adverse impacts and prevent pollution of the environment.

7:26-2A.4 General prohibitions and requirements

(a) Open dumps are declared to be a nuisance, hazardous to human health, and are prohibited.

(b) No new sanitary landfill shall be constructed or any existing landfill continue to operate where solid waste is or would be in contact with the surface or ground waters. This provision shall not apply to cleanfill.

(c) Leachate from any sanitary landfill shall not be allowed to drain or discharge into the surface water or groundwater except as permitted pursuant to the NJPDES regulations, N.J.A.C. 7:14A.

(d) No sanitary landfill shall be operated in a manner that would result in the impairment of the quality of the surface or groundwaters to a degree that would degrade the quality of either the surface or ground waters beyond the classification established by the Department in the Surface Water Quality Standards, N.J.A.C. 7:9-4, or the Ground Water Quality Standards, N.J.A.C. 7:9-6.

(e) No sanitary landfill shall be operated in a manner that would result in the degradation of the ambient air quality beyond the standards established by the Department pursuant to N.J.A.C. 7:27.

(f) No sanitary landfill shall be operated in a manner that would result in soil erosion and sedimentation beyond the standards established by the Department of Agriculture pursuant to N.J.A.C. 2:90.

(g) No new sanitary landfill shall begin construction without first applying for a NJPDES permit pursuant to N.J.A.C. 7:14A and approval of its Soil Erosion and Sediment Control Plan pursuant to N.J.A.C. 2:90. No new sanitary

landfill shall begin operation without first obtaining a NJPDES permit and approval of its Soil Erosion and Sediment Control Plan.

(h) No existing sanitary landfill shall continue to operate without obtaining a NJPDES permit, and approval of its Soil Erosion and Sediment Control plan in accordance with N.J.A.C. 2:90.

(i) No new sanitary landfill shall begin construction or operation if located within the following distances of an airport, as measured from the nearest runway to the nearest property line without the design and implementation of an effective bird deterrent plan approved by this Department and the New Jersey Department of Transportation.

1. Within 10,000 feet of any airport runway which is equal to or greater than 3,000 feet in length and that services turbo-engine planes; or

2. Within 5,000 feet of any airport runway which is less than 3,000 feet in length and that services prop-engine planes.

(j) The owner and/or operator proposing a new landfill or lateral expansion within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft shall notify the affected airport and the appropriate Federal Aviation Administration (FAA) office.

(k) No existing sanitary landfill shall continue to operate, within the restricted zone of an airport as set forth in N.J.A.C. 7:26-2A.6(g)11, when it is determined by the Department and the Bureau of Aviation of the Department of Transportation to present a real or potential attraction for birds, until an effective deterrent plan is implemented.

(l) No person shall engage in the disposal of solid waste at a facility that does not meet the operational and maintenance requirements of this subchapter and N.J.A.C. 7:26-2. In addition, each permittee shall comply with any condition, limitation, or discharge requirement which may be specified in the SWF permit for that facility;

(m) The owner or operator of an existing sanitary landfill shall be required to design in accordance with N.J.A.C. 7:26-2A.7(f)3 or 4, and after Departmental approval of the design, construct, operate and maintain, a gas collection, venting and monitoring system when gas is detected at the points set forth at N.J.A.C. 7:26-2A.7(f)3 or 4;

(n) The owner or operator of an existing sanitary landfill shall install a groundwater monitoring system in accordance with the requirements of N.J.A.C. 7:14A-6.

(o) The owner or operator of an existing sanitary landfill shall be required to design and after Departmental approval of the design, construct, operate and maintain a leachate control collection and treatment system when leachate is determined to be impacting the quality of the surface and groundwaters of the area.

(p) The owner or operator of an existing sanitary landfill shall install a groundwater monitoring system in accordance with the requirements of N.J.A.C. 7:14A.

(q) The following waste types as defined in N.J.A.C. 7:26-2.13(h) and (i) shall not be disposed of in sanitary landfills:

1. Hazardous waste as defined by N.J.A.C. 7:26G;
2. Septic tank clean-out wastes, waste ID number 73;
3. Liquid sewage sludge, waste ID number 74;
4. Radioactive materials regulated by the Atomic Energy Act of 1954, 42 U.S.C. §§ 2011 et seq.;
5. Regulated medical waste, Class 1 through 7, as defined in N.J.A.C. 7:26-3A.5, unless as otherwise provided at N.J.A.C. 7:26-3A.20; and
6. Bulk liquid and semiliquids, waste ID number 72.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Deleted (b) through (d); recodified existing (e) through (l) as (b) through (i); inserted new (j); recodified existing (m) through (s) as (k) through (q); in (q), amended N.J.A.C. references; and added (q)5 and (q)6.

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

Denial of claim due to failure to demonstrate impact of landfill affirmed. *Sheridan v. Environmental Claims Administration*, Department of Environmental Protection, 97 N.J.A.R.2d (EPE) 40.

Use variance and site plan approval for enlargement of solid waste facility required submission of application to modify solid waste management plan. *Ippolito v. Tenafly Board of Adjustment*, 95 N.J.A.R.2d (EPE) 17.

7:26-2A.5 Additional engineering design submittal requirements for sanitary landfills

(a) In addition to the requirements of N.J.A.C. 7:26-2.10, the engineering design submission requirements for sanitary landfills shall include the following:

1. A regional map prepared and submitted in accordance with N.J.A.C. 7:26-2.10(b)4 which shall include, but not be limited to, the following additional information:
 - i. Location of all public community water supply wells and all wells permitted to pump over 100,000 gallons per day or 70 gallons per minute within one and one-half miles of the property line of the landfill. The service areas, if any, of the public community water systems, as defined in N.J.A.C. 7:10-1.3, within one and one-half miles of the property line of the sanitary landfill; and
 - ii. Location of all water wells within one-half mile of the property line of the sanitary landfill;

2. A site plan map delineating the existing contours of the proposed sanitary landfill area prepared and submitted in accordance with N.J.A.C. 7:26-2.10(b)6 which shall include, but not be limited to, the following additional information:

i. Delineation of the area-wide modular development of the sanitary landfill's construction and operations and, where applicable, the lateral limits of previously filled areas;

ii. Delineation of the vertical and horizontal control monuments and property corner markers. The elevations, in relation to the National Geodetic Vertical Datum of 1929 (Mean Sea Level 1929) of the control monuments, shall be indicated and keyed into the North American Datum of 1983;

iii. Location of all monitoring devices including, but not limited to, all groundwater monitoring wells, lysime-

ters, gas monitoring wells, gas vents, piezometers, inclinometers and bore hole extensometers. Elevations of the monitoring wells and piezometers shall be determined to the top of the outercasing and for the adjacent ground surface. The horizontal and vertical location shall be represented as required by N.J.A.C. 7:26-2.10(b)6i. In areas, as dictated by the site geology, the vertical location accuracy may be required to be accurate to the nearest 0.01 foot; and

iv. Location of all borings, excavations and test pits. The horizontal and vertical location of all borings shall be represented as required by N.J.A.C. 7:26-2.10(b)6i. In areas, as dictated by the site geology, the vertical location accuracy may be required to be accurate to the nearest 0.01 foot;

3. Additional site plan maps which delineate in plan view and in detailed cross-sectional view the following:

i. The initial elevations of the proposed sanitary landfill showing all grades of the liner and, where applicable, the subgrade;

ii. The final elevations of any excavation showing all grades of the excavation and, where applicable, all grades of the subgrade;

iii. The leachate collection system showing all grades of the collection pipe, pipe envelope drainage layer, filter manhole/clean-out risers and sumps;

iv. All berms, dikes, ditches, swales or other protection devices as needed to divert or collect surface water run-on or run-off;

v. The system utilized for venting and monitoring the gases generated within the sanitary landfill and, if applicable, from beneath the liner;

vi. The final elevations and grades of the capping system including the subgrade for the impervious cap, the drainage and vegetative layers, the drainage pipes and drainage envelope;

vii. All grades of leachate treatment and disposal systems including the leachate removal pipes, the equalization pond, treatment or pre-treatment ponds or storage facilities; and

viii. All proposed landscaping and screening techniques to be utilized to minimize the visual impact of the sanitary landfill.

4. Additional engineering drawings, designs or maps which describe, in sufficient detail, the construction specifications of the systems utilized in the sanitary landfill. These maps or drawings may be combined with those required by N.J.A.C. 7:26-2A.5(a)3 so long as the required details are clearly distinguishable and identifiable. They shall include, but not be limited to, the following:

- i. Subgrade;
- ii. Liner/cut-off wall;
- iii. Drainage layer and filter;
- iv. Collection pipe and drain envelope;
- v. Inlet/outlet structures;
- vi. Manholes, sumps, pumps, and pump station;
- vii. Leachate storage tanks;
- viii. Leachate treatment impoundments or tanks;
- ix. Leachate disposal systems;
- x. Gas vents, manifolds and pump station;
- xi. Monitoring wells/devices;
- xii. Surface drainage and erosion controls; and
- xiii. Cap.

5. An engineering report which includes, but is not limited to, the following additional information:

i. A description of the general installation methods and procedures for construction of the facility including materials required, equipment utilized, and scheduling of construction events and phases. To insure that the construction requirements of this subchapter are properly implemented the description,¹ but not be limited to, the following:

- (1) Site preparation;
- (2) Subgrade;
- (3) Liner/cut-off wall;
- (4) Drainage layer and filter;
- (5) Collection pipes and drain envelope;
- (6) Inlet/outlet structures;
- (7) Manholes, sumps, pumps, and pump station;
- (8) Leachate storage tanks;
- (9) Leachate treatment impoundments or tanks;
- (10) Leachate disposal;
- (11) Gas vents, manifolds and pump stations;
- (12) Monitoring wells;
- (13) Surface drainage and erosion controls; and
- (14) Caps.

ii. A description of the estimated solid waste capacity of the site in tons and cubic yards. Projection shall be made to determine the life expectancy of the site based on current and anticipated loading;

iii. The results with sufficient, clearly noted, calculations to verify the results, of the material testing required by this subchapter including, but not limited to, where applicable, the following:

- (1) N.J.A.C. 7:26-2A.5(a)6vi(9) and (10);
- (2) N.J.A.C. 7:26-2A.7(b)3;
- (3) N.J.A.C. 7:26-2A.7(c)2i, vii, and ix;
- (4) N.J.A.C. 7:26-2A.7(c)3i, ii, and x;
- (5) N.J.A.C. 7:26-2A.7(c)4i, iv(1) and (2), and ix;
- (6) N.J.A.C. 7:26-2A.7(c)5i, iv, vii and viii;
- (7) N.J.A.C. 7:26-2A.7(c)6i and iv;
- (8) N.J.A.C. 7:26-2A.7(c)7i, ii and v;
- (9) N.J.A.C. 7:26-2A.7(c)8ii and v;
- (10) N.J.A.C. 7:26-2A.7(c)9i and iv;
- (11) N.J.A.C. 7:26-2A.7(c)10i, ii, iii and iv;
- (12) N.J.A.C. 7:26-2A.7(d)2ii;

- (13) N.J.A.C. 7:26-2A.7(d)3i, iii, ix and xvii;
- (14) N.J.A.C. 7:26-2A.7(f)6, 12 and 14ii;
- (15) N.J.A.C. 7:26-2A.7(g)4 and 8;
- (16) N.J.A.C. 7:26-2A.7(i)3;
- (17) N.J.A.C. 7:26-2A.7(i)9iv; and
- (18) N.J.A.C. 7:26-2A.7(i)10i.

iv. A description of how the sanitary landfill will meet the environmental performance standards required by N.J.A.C. 7:26-2A.6 and the design standards and construction requirements in N.J.A.C. 7:26-2A.7. The description shall provide sufficient, clearly notated design calculations to verify the results, including, but not limited to, the following:

- (1) Foundation and slope stability analysis;
- (2) Liner/cut-off wall efficiency and performance;
- (3) Leachate collection system's capacity, performance, and structural stability;
- (4) Mass transport modeling, or other modeling approved by the Department as provided for at N.J.A.C. 7:26-2A.6(f), for the sanitary landfill performance;
- (5) Pumping system's performance;
- (6) Leachate treatment and disposal system's capacity and performance;
- (7) Run-on/run-off system's capacity and performance;
- (8) Gas venting and/or collection system's performance;
- (9) Monitoring system's efficiency;
- (10) Capping system's efficiency and performance; and
- (11) Cover material quantity analysis.

v. A delineation of the environmentally sensitive areas listed in N.J.A.C. 7:26-2A.6(g) that are impacted by the sanitary landfill and a description of the additional design and construction measures that will be implemented at the sanitary landfill to increase performance of the environmental control systems of the sanitary landfill that will be utilized to minimize and control the potential adverse impacts and prevent pollution in accordance with N.J.A.C. 7:26-2A.6(h).

6. A geotechnical report prepared by a qualified geologist, or geotechnical engineer which includes, but is not limited to, the following requirements or items:

i. A narrative section which contains:

- (1) A general description of the major characteristics of the geological formations of the region where the proposed sanitary landfill will be located including thickness, lithology, structural features, degree of weathering and amount of overburden; and

(2) A site specific description, based on the data collected pursuant to vi below, of the soils, rocks, water levels and flows. Soils test data and evaluations of the soils or rocks underlying the sanitary landfill shall be submitted, including any recommendations for site design which may be appropriate, to minimize any adverse impacts from the construction of the sanitary landfill;

ii. A soils map shall be provided for the area including the sanitary landfill and vicinity. The soils map provided shall be a copy of the map published by the United States Department of Agriculture, Soil Conservation Service or by the State soils or geologic agencies;

iii. A generalized geologic map and geologic cross sections, based on published or unpublished material and mapping available from the United States Geological Survey and New Jersey Geological Survey or unpublished mapping acceptable to the New Jersey Geological Survey, shall be provided for the area including the sanitary landfill and region, and should include, but not be limited to, the following information:

- (1) Bedrock outcrop;
- (2) Dip and strike of sedimentary formations and foliation trend and dip angles of igneous and metamorphic rocks;
- (3) Faults and prominent shear zone trends;
- (4) Joint or fracture trends in bedrock including dip angles;
- (5) Trend direction of solution channels in carbonate rocks and sink holes; and
- (6) Location of any active or abandoned mine workings.

iv. A generalized potentiometric map shall be provided for the area, including the sanitary landfill and the region, based upon available data including, but not limited to, existing topography, surface drainage and existing well data;

v. A well report describing the use, depth, and yield of all wells located on the regional map required by 1i and ii above and the diversion allocation for all public community water supply wells and wells yielding 100,000 gallons per day or greater;

vi. In preparing the site specific report, required by (a)6i(2) above and the site specific geological maps and detailed cross sections required by (a)6vii and viii below, sufficient borings shall be made of the proposed landfill site to characterize and verify the geology and groundwater conditions beneath the site with respect to the types of material, uniformity, hydraulic conductivity, porosity, and depth to groundwater. Borings of the proposed sanitary landfill site shall be provided at a minimum, in accordance with Table I below:

TABLE I
BORINGS

Acreage	Total Number of Borings	Number of Deep Borings Required
Less than 10	4	1
10-49	8	2
50-99	14	4
100-200	20	5
More than 200	24 + 1 boring/each additional 10 acres	6 + 1 boring/each additional 40 acres

(1) The Department reserves the right to require additional borings in areas in which the number of borings required by Table I above is not sufficient to describe the geologic formations and groundwater flow patterns below the proposed sanitary landfill in regard to potential contaminant migration paths;

(2) In highly uniform geologic formations, the number of borings may be reduced, as approved by the Department, if other techniques are employed, as recommended in (a)6vi(6) below, to correlate data collected from these methods to the boring data;

(3) The borings should employ a grid pattern, wherever possible, such that there is, at a minimum, one boring in each major geomorphic feature. The borings pattern shall enable the development of detailed cross sections through the sanitary landfill in order to sufficiently define the geology. It is recommended that the soil borings be performed in a phased approach and that the number of borings in the proposed active landfilling area be minimized;

(4) Subsurface data obtained by borings shall be collected by standard undisturbed soil sampling techniques for engineering properties, and split spoon sampling or standard penetration tests for engineering indexes and classification. Diamond bit coring shall be used for rock boring. Samples shall not be composited. The sampling interval for the boring required by Table I above shall be determined by the geologist or geotechnical engineer and be approved by the Department. It is recommended that sampling be performed on a continuous basis for the first 20 feet below the lowest elevation of the sanitary landfill and collected at five foot intervals thereafter;

(5) All borings shall be a minimum depth of 20 feet below the lowest elevation of the sanitary landfill. The Department reserves the right to require a deeper minimum depth in areas in which 20 feet is not sufficient to describe the geological formation and groundwater flow patterns below the proposed sanitary landfill in regard to potential contaminant migration paths;

(6) The depth of deep borings shall be determined on a case by case basis. The depth should be, at a

minimum, equal to or greater than the design height of the sanitary landfill;

(7) Excavations, test pits and geophysical methods may be employed to supplement the soil boring investigation;

(8) Field and final boring logs shall be submitted for each boring, recording soils or rock conditions encountered. Each log shall include a soil or rock description in accordance with the Unified Soil Classification System or the Rock Qualification Description System, the method of sampling, the depth of soil or rock, the water levels encountered, the blow counts, the soil tests and date. All depths of soil and rock as described within the boring log shall be corrected to National Geodetic Vertical Datum;

(9) In addition to the sampling and testing requirements for foundation analysis set forth in N.J.A.C. 7:26-2A.7(b), at a minimum three separate soil samples for each significant soil/rock class encountered shall be analyzed for unit weight, porosity, laboratory classification, cation exchange capacity, and hydraulic conductivity. The soil samples shall be taken from three separate borings;

(10) It is recommended that a sufficient number of samples, as determined by the geologist or geotechnical engineer, be analyzed for the index properties to verify the uniformity or nonuniformity of the geological formation encountered and to correlate the soils engineering properties. A soil profile for the index properties should be developed at intervals determined on-site;

(11) At a minimum, four of the borings shall be converted to water level observation wells or well nests. The total number of wells or well nests shall be determined on a case-by-case basis as approved by the Department based on the complexity of the geology of the site;

(12) The groundwater shall be sampled and analyzed for each distinct aquifer encountered below the site in accordance with the NJPDES requirements, N.J.A.C. 7:14A. It is recommended that the groundwater be sampled and analyzed in accordance with N.J.A.C. 7:14A, for one year prior to operation of the sanitary landfill;

(13) All borings, not to be utilized as permanent monitoring wells, and wells within the active disposal area shall be sealed in accordance with N.J.A.C. 7:9-9, Sealing of Abandoned Wells, and excavations and test pits shall be backfilled and properly compacted to prevent possible paths of leachate migration.

vii. Geologic maps of the proposed sanitary landfill area, based on the site specific geologic investigation required by (a)6vi above or literature review, prepared

at a scale of one inch equals 200 feet (1"=200') and with contour intervals which sufficiently define the ground surface contours, and various geologic formations and aquifers beneath the proposed landfill;

viii. Detailed site specific cross sections which shall sufficiently describe the geologic formations identified by the geologic maps prepared in accordance with (a)6vii above prepared at a scale which clearly defines the geologic formations; and

ix. Potentiometric maps prepared at a scale of one inch equals 200 feet (1"=200') with contour intervals which sufficiently define the groundwater conditions in all aquifers encountered below the proposed sanitary landfill area based upon stabilized groundwater elevations developed as part of the site specific geologic investigation required by (a)6vi above. It is recommended that two seasonal contour maps based on stabilized water levels in the wells be developed, one representing the yearly low flow condition and the other representing yearly high flow condition.

7. A quality assurance (QA) and quality control (QC) plan for the construction phase meeting the requirements set forth at N.J.A.C. 7:26-2A.7(a)7 through 24 shall be submitted. It shall include, but not be limited to, the following information:

i. A delineation of the QA and QC management structures, including the chain of command of the QA and QC inspectors and describing the quality control and corrective action implementation responsibilities of the QA and QC inspectors and the contractors;

ii. A description of the required level of experience for the contractor and the contractor's crew for every major phase of construction which shall be sufficient to insure that the installation methods and procedures as required in (a)5i above are properly implemented;

iii. A description of the required level of experience of the QA and QC inspectors for every major phase of construction to insure that the QA and QC testing as required by (a)7vi below is properly implemented;

iv. A description of the required level of training, if necessary, to be provided for the contractor's personnel and the inspectors, to insure that the installation methods and procedures and the contingency methods, as required by (a)5i and ii above, are properly implemented and that corrective action will be properly employed, when necessary;

v. A description of the QA and QC testing and inspections for every major phase of construction, which shall include but not be limited to the following:

- (1) The frequency of inspections;
- (2) The frequency of field testing;

(3) The frequency of sampling for laboratory testing;

(4) The sampling and field testing procedures to be utilized;

(5) The sampling and field testing equipment to be utilized;

(6) The calibration of field testing equipment;

(7) The frequency of system or performance audits;

(8) The sampling size;

(9) The soils or geotechnical laboratory to be used;

(10) The laboratory procedures to be utilized; and

(11) The calibration of laboratory equipment and QA/QC of laboratory procedures.

vi. The QC testing and inspections shall include, but not be limited to, the following:

(1) N.J.A.C. 7:26-2A.7(b)4viii and x;

(2) N.J.A.C. 7:26-2A.7(c)2v, vii, x and xi;

(3) N.J.A.C. 7:26-2A.7(c)5vi;

(4) N.J.A.C. 7:26-2A.7(c)6v;

(5) N.J.A.C. 7:26-2A.7(c)7vi;

(6) N.J.A.C. 7:26-2A.7(c)9vii and viii;

(7) N.J.A.C. 7:26-2A.7(c)10x, xi, xii, and xvii;

(8) N.J.A.C. 7:26-2A.7(d)2vii and viii;

(9) N.J.A.C. 7:26-2A.7(d)3viii and xxi;

(10) N.J.A.C. 7:26-2A.7(g)6 and 7; and

(11) N.J.A.C. 7:26-2A.7(i)9iv and 10i.

vii. The QA and QC plan shall include a report listing technical specifications for all materials to be used in the construction of the sanitary landfill. The report shall describe the product specifications for the materials used, and state the acceptable range of tolerances, if any. The QA and QC plan shall contain a construction contingency plan for the construction phase which shall describe procedures for responding to construction deficiencies resulting from circumstances including, but not limited to, inclement weather, defective materials or construction inconsistent with specifications as demonstrated by quality control testing. The plan shall provide a description of the criteria to be utilized in evaluating deficiencies, selecting corrective action methodology and implementing corrective action.

8. The O and M manual for the sanitary landfill shall include the following, in addition to the O and M requirements set forth in the general engineering requirements, N.J.A.C. 7:26-2.10(b)9:

i. A description of how the operations and maintenance of the sanitary landfill will meet the requirements set forth in N.J.A.C. 7:26-2A.8;

ii. An occupational health and safety plan established in conformance with the safety and health standards of the Federal Department of Labor, Occupational Safety and Health Administration pursuant to 29 CFR 1926 and 1910 Safety and Health Standards and Industrial Standards;

iii. A community relations plan for facilities with a design capacity of 500 tons per day or greater, identifying the steps that the owner and/or operator will take to transfer information and solicit input from the community in which the facility is located. The community relations plan should contain the following:

(1) An opportunity for two open meetings with local officials, or their representatives, and the general public of the district affected by the proposed facility prior to and during facility construction. The purpose of such meetings will be to inform the community of the nature of operations proposed for the facility, including the progress of construction and projected initial tipping fees;

(2) An opportunity for an annual open meeting with the community or its representatives subsequent to the initial startup of operations. The purpose of these meetings is to allow community input and to provide a forum for exchanging ideas; and

(3) A notification procedure, whereby the community is provided a report of findings in the case of an emergency incident at the facility.

iv. A facility staffing plan containing the following:

(1) A written job description for each position, including duties and performance standards. The description shall include the requisite skills, education, and other qualifications deemed necessary for employees assigned to each position; and

(2) An explanation of the criteria and reasons used in selecting the required number and types of positions.

v. A written training plan which shall include the type and amount of both the initial and annual follow-up training to be provided to facility personnel;

vi. An emergency contingency plan which delineates procedures for responding to fire, explosions or any unplanned sudden or non-sudden releases of harmful constituents to the air, soil or surface water. The emergency contingency plan shall be submitted to the

local police and fire departments, and to the local and county health departments or other offices of emergency management. The emergency contingency plan shall contain:

(1) A description of the actions facility personnel shall take in the event of various emergency situations;

(2) A description of arrangements made with the Department and local police and fire departments which allow for immediate entry into the facility by their authorized representatives should the need arise, such as in the case of personnel responding to an emergency situation; and

(3) A list of names, addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinator for the facility. This list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and the others shall be listed in the order in which they will assume responsibility as alternates.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended (a).

¹ So in original.

7:26-2A.6 Sanitary landfill environmental performance standards

(a) Any sanitary landfill subject to regulation pursuant to N.J.A.C. 7:26-2A.1(c) shall contain a leachate containment system, leachate collection system, leachate treatment/disposal system, gas venting system, surface drainage control system, monitoring system, a final capping system and any other system or environmental control measure required by the Department, and shall be designed and constructed in accordance with the performance standards set forth in this section.

(b) In the design and construction of a sanitary landfill subject to regulation pursuant to N.J.A.C. 7:26-2A.1(c), consideration shall be given to ground and surface water conditions, geology, soils, topographic features, solid waste types and quantities, social, geographic and economic factors, and esthetic and environmental impacts in order to protect the environment and to minimize and control adverse impacts.

(c) The following are the performance standards for sanitary landfills:

1. The sanitary landfill shall not cause or result in any decrease in the quality of the ground or surface water over background at the relevant point of compliance of the sanitary landfill, within the uppermost aquifer or surface water adjacent to the sanitary landfill, beyond that allowed by N.J.A.C. 7:9B, Ground Water Quality Standards or N.J.A.C. 7:9-6, Surface Water Quality Standards,

as applicable. The relevant point of compliance means the property boundary of the sanitary landfill, or 150 meters from the toe or slope of the landfilled area, whichever is less.

(d) The alternate design for a sanitary landfill located in a stable low permeable defined geologic formation having a hydraulic conductivity of less than 1×10^{-6} cm/sec., the standard for the design for the containment and leachate collection systems shall consist, at a minimum, of the following:

1. An impervious liner consisting of three feet of clay or soil admixture having a hydraulic conductivity equal to or less than 1×10^{-7} cm/sec. designed and constructed in accordance with N.J.A.C. 7:26-2A.7(c); and

2. A leachate collection system consisting of a one foot sand drainage layer having a hydraulic conductivity equal to or greater than 1×10^{-2} cm/sec. The collection pipe spacing and liner slope shall be designed to ensure that the leachate head on the liner does not exceed one foot at any time based on actual flows from the area of drainage at real time events. The leachate collection system shall be constructed as specified in N.J.A.C. 7:26-2A.7(d);

3. An applicant may submit an alternate design for the containment and leachate collection system. The Department will only approve such alternate design if the applicant is able to demonstrate, to the satisfaction of the Department, that the alternate system design is an equivalent system in terms of structural integrity as (d)1 and 2 above, meets or exceeds the performance and efficiency requirements of (d)1 and 2 above and meets the performance standard established in (c) above.

(e) The standard design for all sanitary landfills, except as noted in (e)1 below, not located in stable low permeable geologic formations of sufficient thickness, having a hydraulic conductivity of less than 1×10^{-6} cm/sec., shall, at a minimum, construct a composite liner system consisting of a geomembrane liner in compressive contact with a two-foot layer of compacted clay or admixture liner with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. The design and performance of the sanitary landfill shall insure an environmentally sound operation with consideration given to the geology, groundwater quality and groundwater usage of the area.

1. A sanitary landfill located in a geologic area in which the bedrock is at or near the surface and that serves as a direct source for a public community water system, shall, at a minimum, have a containment system consisting of a double composite liner system. The primary and secondary geomembrane liners in the double composite liner system shall be in compressive contact with a clay or admixture liner below the geomembrane liner. A leak detection/collection system shall be located between the primary composite liner and the secondary composite liner.

(f) The evaluation of the performance of the sanitary landfill in the geologic formation within which it is located shall be analyzed with a three-dimensional mass transport model. A two-dimensional mass transport model may be utilized, if approved by the Department, after the applicant demonstrates that the configuration of the site specific geology of vertical versus horizontal extent allows for an evaluation equal to an evaluation resulting from a three-dimensional mass transport model. The mass transport model shall have the capacity to represent the real world situation in accordance with the requirements set forth at Appendix A. Sanitary landfills that employ a double composite liner system are exempt from the requirements of this subsection.

(g) All sanitary landfills regulated pursuant to N.J.A.C. 7:26-2A.1(c) shall be designed and constructed, in accordance with (h) below, to protect environmentally sensitive areas including, but not limited to, the following:

1. The flood-fringe areas of the flood hazard area as identified by the Department pursuant to the State Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.;

2. Wetland buffer areas as identified by the Department pursuant to the Wetlands Coastal Resource and Development Policies, N.J.A.C. 7:7E;

3. Lands in municipally approved farmland preservation programs, farmland preservation programs or lands which have been dedicated to agricultural use by the purchase of their development easements pursuant to the provisions of the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., or equivalent independent county/municipal programs;

4. The watershed area for waters classified by the Department as FW-1 waters or FW-2 Trout Protection Water pursuant to the Surface Water Quality Standards, N.J.A.C. 7:9-4;

5. Areas within 1000 feet of any lake or pond and 500 feet of any river or stream;

6. The Pinelands Area as established by N.J.S.A. 13:18A-11a of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.;

7. Areas directly underlain by cavernous limestone, dolomite, or marble;

8. Areas directly overlying past or present subsurface mining activities;

9. Areas within three miles from either end of the nearest runway of any public-use airport owned by a public agency or designated by the Federal Aviation Administration as a reliever airport as determined by the Division of Aeronautics of the New Jersey Department of Transportation;

10. Areas which will encroach upon, damage or destroy any area, site, structure, or object included in the Register of Historic Places established by N.J.S.A. 13:1B-15.128 et seq.;

11. Within the buffer zone area of specimen trees as determined and defined by the Division of Parks and Forestry; and

12. Areas with slopes exceeding 15 percent.

(h) In order to protect the environmentally sensitive areas identified in (g) above, the Department shall require the design, construction and operation of additional control systems or increased performance of the required systems to minimize and control adverse impacts and prevent pollution. The Department will consider documentation, submitted by the applicant, demonstrating that the topographical and geological conditions, in conjunction with the design, construction, operation and maintenance of the sanitary landfill in accordance with this subchapter, will adequately prevent pollution of the environmentally sensitive area.

1. The additional environmental control systems or increased performance of the systems required to protect the environmentally sensitive areas identified in (g) above shall at a minimum include the following for the particular identified area:

	Environmentally Sensitive Area Impacted	Type of System Upgrading Required
i.	Flood fringe areas of flood hazard area, N.J.A.C. 7:26-2A.6(g)1;	Upgrading of the surface drainage system. Increase in the design storm size;
ii.	Wetlands buffer areas, N.J.A.C. 7:26-2A.6(g)2;	Upgrading of the surface drainage system. Increase in the design storm size;
iii.	Lands in farmland preservation programs or municipally approved farmland preservation programs, N.J.A.C. 7:26-2A.6(g)3;	Site configuration restrictions; Operational restrictions;
iv.	Watershed areas of FW-1 water or FW-2 Trout Production Waters, N.J.A.C. 7:26-2A.6(g)4;	Upgrading of the surface drainage system. Increase in the design storm size;
v.	1000 feet of lakes or ponds and 500 feet of rivers or streams, N.J.A.C. 7:26-2A.6(g)5;	Upgrading of the surface drainage system. Increase in the design storm size;
vi.	Pinelands Protection Area, N.J.A.C. 7:26-2A.6(g)6;	Upgrading of the surface drainage system. Increase in the design storm size;
vii.	Cavernous limestone, dolomite and marble, N.J.A.C. 7:26-2A.6(g)7;	Site configuration restrictions; Upgrading of the subgrade support; Upgrading of the surface drainage system;
viii.	Subsurface mining, N.J.A.C. 7:26-2A.6(g)8;	Site configuration restrictions; Upgrading of the subgrade support;
ix.	Three miles to public use airport, N.J.A.C. 7:26-2A.6(g)9;	Operational restrictions;
x.	Historic site preservation, N.J.A.C. 7:26-2A.6(g)10;	Site configuration restrictions;
xi.	Buffer zones of specimen trees, N.J.A.C. 7:26-2A.6(g)11;	Site configuration restrictions;
xii.	Slopes exceeding 15 percent, N.J.A.C. 7:26-2A.6(g)12;	Site configuration restrictions; Upgrading of the

Environmentally Sensitive
Area Impacted

Type of System Upgrading
Required
surface drainage system.
Increase in the designed
storm size.

(i) Sanitary landfill setback areas and buffer zones shall be designed and constructed in accordance with the following:

1. In areas in which the groundwater flow velocity, in the geologic formation in which the proposed sanitary landfill will be located, is equal to or greater than one foot per day, the minimum setback area shall be 300 feet from the toe of the slope of the landfill to the property boundary line.

2. In areas in which the groundwater flow velocity, in the geologic formation in which the proposed sanitary landfill will be located, is less than one foot per day, the setback may be reduced based on the geology and topography of the area, the groundwater quality and usage, and the performance standards set forth in (c) above and as determined in accordance with (f) above, but in no case shall the setback area be less than 150 feet.

3. A greater separation than that required by (i)1 or 2 above may be required based on the geology and topography of the area, the groundwater quality, usage, and proximity of potable water wells and the performance standards set forth at (c) above and as determined in accordance with (f) above to prevent pollution within the aquifers.

4. A minimum of 50 feet of buffer zone within the setback area shall be maintained at all landfills.

(j) Reductions in the performance of the sanitary landfill set forth in (d) and (e) above and the design standards and construction requirements set forth in N.J.A.C. 7:26-2A.7 for Class II and III sanitary landfills shall be permitted by the Department based upon the following:

1. The performance required of Class II sanitary landfills shall be based upon the waste type to be disposed of at the sanitary landfill and shall be in accordance with the following analyses:

i. Historical data of the waste type proposed to be disposed of at the sanitary landfill demonstrating the degradation and immobilization of the waste within the soil matrix under similar conditions; or

ii. An analysis, by a New Jersey certified laboratory, of a composite sample of the waste, which shall include, but not be limited to, the following:

(1) A total analysis of metals listed in N.J.A.C. 7:26G-5 (40 C.F.R. 261.24), performed in accordance with the most current version of the American Water Works Association, AWWA Standard Method, Part 300;

(2) Extraction procedures for the metals listed in N.J.A.C. 7:26G-5 (40 C.F.R. 261.24) using an extractant at a pH of 5 and with site water shall be performed in accordance with the most current version of the USEPA "Test Methods for Evaluating Solid Waste," SW 846 USEPA, Section 2 and USEPA "Solid Waste Leaching Procedure SW 924;"

(3) Steam distillation of any suspected organic shall be performed in accordance with the most current version of the USEPA "Test Methods for Evaluating Solid Waste SW 846;" Section 4.

iii. Background analysis shall be performed on soils taken from the proposed site in accordance with (j)ii(1) and (2) above.

iv. Split sampling, if required, shall be performed concurrently with the Department at a time and place to be agreed upon by the applicant and the Department. A certified copy of the bill for the Department's analysis of the waste and soils for split sampling performed in accordance with (j)lii and iii above, shall be forwarded to the applicant, who shall pay the bill within 30 days thereafter. Payment of the bill in full shall be a condition of the final permit approval; and

v. A mass transport model meeting the requirements of (f) above shall be used to analyze the extent of any possible potential contaminant migration based on the site geology and groundwater flow at a maximum discharge rate.

2. The design standards and construction requirements set forth at N.J.A.C. 7:26A-2.7 may be reduced in as approved by the Department for Class II sanitary landfills as determined based upon the waste analysis performed in accordance with (j)1 above and the following:

- i. Site access control and security;
- ii. Length and scale of the operation; and
- iii. Location of the proposed sanitary landfill in regards to the following:
 - (1) Geologic location in accordance with (d) and (e) above;
 - (2) Impacts on environmentally sensitive areas in accordance with (g) and (h) above;
 - (3) Groundwater flow velocity in accordance with (i)1 and 2 above; and
 - (4) The geologic and groundwater impacts and the geotechnical analysis needed for the two-dimensional model shall be determined based upon a preliminary investigation performed in accordance with N.J.A.C. 7:26-2A.5(a)6.

3. The performance required for Class III sanitary landfills may be reduced and Class III sanitary landfills may be exempted from one or more of the design standards or construction requirements of N.J.A.C. 7:26-2A.7 based on the following:

- i. Site access control and security;
- ii. Length and scale of the disposal operation; and
- iii. Location of the landfill in regards to the following:
 - (1) Geologic location in accordance with (d) and (e) above;
 - (2) Impacts on environmentally sensitive areas in accordance with (g) and (h) above; and
 - (3) Groundwater flow velocity in accordance with (i)1 and 2 above.

Amended by R.1990 d.578, effective November 19, 1990.

See: 22 N.J.R. 2882(a), 22 N.J.R. 3514(a).

Design requirement changed from 200 feet to 20 feet at (g)15.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended (c), (e), (g) and (h); in (d), inserted text "The alternative design"; in (d)1, inserted reference to soil admixture; and in (f), added last sentence.

Administrative correction.

See: 29 N.J.R. 127(a).

7:26-2A.7 Sanitary landfill engineering design standards and construction requirements

(a) The following are the general sanitary landfill engineering design standards and construction requirements:

1. All sanitary landfills regulated by N.J.A.C. 7:26-2A.1(c) shall be designed and constructed with a leachate containment system, leachate collection system, leachate treatment/disposal system, monitoring system, a surface drainage control system, gas venting system, a final capping system and any other systems or control measures required pursuant to the design standards and construction requirements set forth in this subchapter, unless exempted by N.J.A.C. 7:26-2A.6(j)3;

2. An on-site baseline consisting of two vertical and horizontal control monuments shall be constructed and installed in accordance with the New Jersey Map Filing Law, N.J.S.A. 46:23-9, and Department specifications, as provided in "Guidelines for Establishing Vertical and Horizontal Control Monuments on a Sanitary Landfill" contained in the technical manual entitled Division of Solid Waste Management, Bureau of Landfill Engineering, Landfill Permits, prepared and made available by the Department.

i. The control monuments shall be installed with, at a minimum, Second Order accuracy in accordance with the "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Survey" published

by the U.S. Department of Commerce 1980. The control monuments shall be tied into the national or state geodetic survey network and keyed into the North American Datum of 1983.

ii. Sanitary landfills equal to or greater than 50 acres may be required to construct and install secondary control points in accordance with the Department's specifications listed in "Guidelines for Establishing Vertical and Horizontal Control Monuments on a Sanitary Landfill".

3. The sanitary landfill shall be constructed with a modular design. Each section of the modular design shall be hydraulically isolated from the adjoining section.

4. The degree of hydraulic isolation shall be determined based on the location of the landfill, and shall at a minimum include the following:

i. Sanitary landfills located in areas described in N.J.A.C. 7:26-2A.6(d) and (e), shall, at a minimum, include a temporary berm capable of isolating run-on from adjoining areas and run-off from the active landfill area and contain leachate generated within the sanitary landfill section.

ii. Sanitary landfills located in areas described in N.J.A.C. 7:26-2A.6(e)1 which require, at a minimum, a double composite liner system and a leak detection system shall be designed so that each section drains, at a minimum, to separate sumps capable of isolating any potential leaks from that section.

5. The construction and operation of the modular sanitary landfill design should be initiated in the section which is most down gradient in relation to groundwater flow. Alternative designs to meet this requirement are acceptable in areas where the topography, such as steep surrounding slopes, make this requirement environmentally unsound.

6. The size of each section shall be designed to minimize the exposed active areas.

7. A quality assurance inspector, independent of the quality control inspector, approved by the Department and reporting directly to the Department, shall be at the site at all times during the initial construction phase of the containment and leachate collection systems to observe and perform all required systems audits of the quality control inspections, as set forth at (a)8, 9 and 10 below, to insure proper implementation of the design and permit requirements. For the purposes of this section, quality assurance means the periodic testing and observations performed by the owner and/or operator of a landfill as a check on the construction contractor's quality control activities.

8. A meeting shall be held between the quality assurance inspectors and the Department to establish reporting procedures and frequency, in accordance with the construction scheduling.

9. Quality control inspectors shall be at the site during all phases of construction to ensure and verify that the approved sanitary landfill design and SWF permit landfill construction requirements are properly implemented.

The quality control inspectors shall, at a minimum, be at the site at all times during the construction of the containment and leachate collection systems. For the purposes of this section, quality control means those activities and responsibilities assigned to the construction contractor, manufacturer, installer or supplier to measure and regulate the characteristics or properties of an item in order to ensure that the applicable landfill construction requirements at N.J.A.C. 7:26-2A.7, SWF permit conditions and the requirements of (a)12 and 13 below are met. This includes those actions taken before, during, or after construction to ensure that the materials used and the completed workmanship are in conformance with the construction requirements at N.J.A.C. 7:26-2A.7 and the SWF permit.

10. The quality control measures and tests required by this subchapter and described in the QA and QC plan submitted in accordance with N.J.A.C. 7:26-2A.5(a)7 shall be employed to ensure that the construction requirements are properly implemented and that the design and performance standards are achieved.

11. The quality control inspector shall inspect those aspects of the subgrade preparation including, but not limited to, the following:

- i. Site preparation, clearing, and grubbing;
- ii. Excavation of subgrade to required elevations;
- iii. Subgrade preparation to eliminate incompatibilities with the liner system;
- iv. Proper application of vegetation suppressant;
- v. Compaction of subgrade to design density at proper moisture content to achieve required strength and stability to support the liner;
- vi. Moisture content density and field strength tests performed as required;
- vii. Compacted lift thickness;
- viii. Compaction equipment, weight, speed, and number of passes;
- ix. Method of moisture addition;
- x. Proof-rolling of subgrade;
- xi. Fine finishing of the subgrade to required grades; and
- xii. Final inspection of the subgrade for acceptability of area to be lined.

12. The quality control inspector shall inspect those aspects of the containment system including, but not limited to the following:

- i. Liner material to ensure that the material being used meets specifications;

ii. Liner material stockpiling, storage, and handling to prevent damage;

iii. Inlet/outlet structure or penetration through the liner to ensure compatibility with the liner system;

iv. Final grades of liner to ensure that they are within acceptable tolerances;

v. Final inspection of liner for acceptability prior to backfill placement;

vi. Backfill placement;

vii. Geotextile placement;

viii. Compacted liners with respect to the following:

(1) Compaction of liner to design density at the proper moisture content to achieve the required hydraulic conductivity and maintain strength and stability;

(2) Uniformity of compactive effort;

(3) Compacted lift thickness;

(4) Compacted liner thickness;

(5) Compaction equipment weight, speed, and number of passes;

(6) Moisture content, density, hydraulic conductivity and field infiltration tests to ensure that they are performed as required;

(7) Mixing and blending of liner material to ensure that the activity is being performed as required; and

(8) Repairs and corrective or remedial action performed as required.

ix. Geomembranes with respect to the following:

(1) Liner panel placement is in accordance with required configuration;

(2) Permanent and temporary anchoring procedures are followed;

(3) The overlap and seam width are in accordance with the design;

(4) The area of seaming is clean and supported;

(5) The uniformity and continuity of seams or welds;

(6) Cap strips are installed on all field seams for bottom liners employing solvent or bodied solvent;

(7) Qualitative and quantitative field seaming tests are performed as required;

(8) Imperfections in seams, wrinkles at seams and fishmouth are repaired as required; and

(9) Corrective or remedial action taken.

13. The quality control inspector shall inspect those aspects of the leachate collection system including, but not limited to, the following:

i. Material stockpiling, storage, and handling to prevent damage;

ii. Drainage layer placement;

iii. Thickness of the drainage layer;

iv. Grain size analysis and relative density or compaction tests are performed as required;

v. Uniformity of the soil;

vi. Filter placement;

vii. Grades and alignments within acceptable tolerances;

viii. Envelope placement;

ix. Proper implementation of action taken to protect the collection pipe and liner from the loads and stresses due to the traffic of backfilling equipment;

x. Sump construction;

xi. Sump water tightness tests; and

xii. Pump placements.

14. Daily QC reports shall be prepared by the quality control inspector or quality assurance inspectors and maintained in a log book or by means of an electronic records storage system approved by the Department which shall be accessible at the job site at all times for inspection by the Department. All lab reports and field testing results shall be signed and dated by the inspector, and shall be attached to the daily QC reports. The daily QC reports shall include, but not be limited to, the following:

i. Identification of project name, location and date;

ii. Weather conditions including:

(1) Temperature (daily high and low);

(2) Barometric pressure;

(3) Wind direction and speed;

(4) Last precipitation event; and

(5) Amount of precipitation.

iii. Description and location of construction currently underway;

iv. Equipment and personnel at work at each unit;

v. Description and location of areas being tested or observed;

vi. Off-site material received and quality verification documentation;

vii. Calibration of test equipment;

viii. Description and location of remedial action taken; and

ix. Decisions and comments including conversations, directives and directions for the following:

- (1) Acceptance or failure of inspection or tests;
- (2) Acceptance or failure of daily work unit performance;
- (3) Problems encountered and corrective action taken;
- (4) On-going corrective action;
- (5) In-field modifications; and
- (6) Assessment of overall project quality.

15. The scheduled frequency of inspections by the independent quality assurance inspectors may be reduced or discontinued if approved by the Department. The reductions or discontinuance shall be based on the results of the initial construction tests and the precision and consistency of the quality control test results.

16. At such time as the independent quality assurance inspector is discontinued, as approved by the Department, the activities performed by the quality insurance inspector shall be carried out by the permittee's quality control inspectors in accordance with the approved Quality Assurance and Quality Control plan.

17. The Department may reinstate the independent quality assurance inspection at the site if the results of the construction tests and the precision and consistency of the quality control testing warrant such reinstatement.

18. Best available engineering construction practices shall be employed for all phases of the facility construction.

19. The Department shall be notified within 24 hours at the Department hotline at (609) 292-7172, should an emergency or accident involving personal injury occur.

20. A New Jersey licensed professional civil or geotechnical engineer shall certify, in writing, to the Department that he or she has supervised the inspection of the construction of each major phase of the sanitary landfill's construction. He or she shall further certify that each phase has been prepared and constructed in accordance with the engineering design approved by the Department, prior to operations. The certification shall include a final documentation report which shall summarize the daily quality control of construction activities as required by (a)14 above, and shall include as-built drawings.

21. A New Jersey licensed professional civil or geotechnical engineer shall certify that the materials utilized in the containment system and leachate collection system are in conformance with and meet the specifications of the approved engineering design.

22. There shall be no deviation made from the approved engineering design specification without the prior written approval of the design engineer and, at a minimum, prior verbal approval by the Department.

23. All certifications shall bear the raised seal of the New Jersey licensed professional engineer, his signature, and the date of certification.

24. The certification required in (a)20 and 21 above shall include the following: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals under my supervision, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I understand that, in addition to criminal penalties, I may be liable for a civil administrative penalty pursuant to N.J.A.C. 7:26-5 and that submitting false information may be grounds for denial, revocation or termination of any solid waste facility permit or vehicle registration for which I may be seeking approval or now hold."

(b) The sanitary landfill shall be designed and constructed on an appropriate foundation meeting the following minimum requirements:

1. The foundation of the proposed sanitary landfill area shall provide firm, relatively unyielding, planar surfaces to support the liner.

2. The foundation shall be capable of providing support to the liner and resistance to the pressure gradient above and below the liner resulting from settlement, compression or uplift.

3. A foundation analysis shall be performed prior to construction, to determine the structural integrity of the foundation to support the loads and stresses imposed by the height and weight of the sanitary landfill and the design loading rate of the facility. These loads and loading rates shall not result or give cause to failure of the containment or leachate collection systems. The foundation analysis shall include the following:

i. The strength of the foundation shall be determined for all appropriate conditions. These conditions shall be evaluated utilizing appropriate American Society of Testing and Materials (hereinafter ASTM), American Association of State Highway and Transportation Officials (hereinafter AASHTO) or other equivalent methods for field testing and laboratory testing to determine properties for calculating settlement. The stability of the foundation shall be determined for static and seismic conditions as follows:

(1) The static analysis shall provide a minimum factor of safety of 1.5 unless otherwise approved by the Department; and

- (2) The seismic analysis shall be performed pursuant to 40 C.F.R. Parts 257 and 258 (also known as Subtitle D of the Resource Conservation and Recovery Act of 1976 as amended) and the Department's Technical Manual for the Division of Solid and Hazardous Waste, Bureau of Landfill, Compost and Recycling Management, Landfill Permits. The foundation shall be designed to resist the maximum horizontal acceleration in lithified material for the sanitary landfill. The maximum expected horizontal acceleration, as defined by 40 C.F.R. Parts 257 and 258, shall mean the maximum expected acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years.
- ii. The total settlement or swell of the foundation resulting from the initial, consolidation and compression settlement shall be determined utilizing appropriate ASTM, AASHTO or equivalent methods. The total settlement or percent consolidation shall not result or give cause to failure of the containment or leachate collection systems;
- iii. The ultimate bearing capacity of the foundation shall be determined and the actual loads and stresses imposed by the surface impoundment dikes, storage tanks, manholes, clean-out risers, and sumps shall not result or give cause to failure with a factor of safety of 3 or greater;
- iv. The compaction curves or relative density of the foundation shall be determined by the appropriate method in accordance with ASTM, AASHTO, or equivalent methods; and
- v. Sampling shall be performed in accordance with the following schedule:
- (1) In uniform geological formations, the sampling shall, at a minimum, be performed to give three replicate results per site. Sampling locations shall be in the areas of expected maximum loads and at the toe of the proposed slope. The sampling locations should be delineated in the scope of work submitted in accordance with N.J.A.C. 7:26-2.4(a); and
- (2) In non-uniform complex geological formations the number and depth of samples shall be determined on a case-by-case basis. The sampling locations should be delineated in the scope of work submitted in accordance with N.J.A.C. 7:26-2.4(a).
4. The foundation shall be prepared in the following manner prior to placement of the liner:
- i. All trees, brush, stumps, logs, tree roots, boulders, and debris shall be removed;
- ii. All surface dissimilarities (for example, fractured rock, cobble, angular gravel, organic soils, top soils, etc.) that would result in a potential degradation or failure of the liner systems shall either be stabilized, removed, or covered with a minimum of six inches of sand classified as a SP in the Unified Soils Classification System or equivalent;
- iii. If a soil sterilant is to be utilized to inhibit any potential vegetative growth, it shall be an approved United States Environmental Protection Agency product and shall be applied in accordance with label specifications and the requirements of the New Jersey Pesticide Control Code, N.J.A.C. 7:30;
- iv. The subgrade shall be compacted by modification of the compactive effort utilizing stage compaction to the design density, at the proper moisture content if applicable, based on laboratory analysis to achieve the required strength;
- v. All depressions within the subgrade shall be filled with a suitable soil approved by the quality control inspector, and shall be compacted to the design density, at the proper moisture content if applicable, to achieve the required strength;
- vi. Any soil fill utilized shall be spread in horizontal layers not exceeding the effective depth of the compaction equipment utilized, and shall be compacted to the design density, at the proper moisture content if applicable, to achieve the required strength;
- vii. Placement of soil fill into frozen ground or placement of soil fill which is in a frozen state is prohibited;
- viii. The subgrade shall be proof-rolled with a rubber-tired roller. Any weaving of the subgrade shall be an indication of failure which shall be over-excavated and filled with a suitable soils approved by the quality control inspector, compacted to the design density, at the proper moisture content if applicable, to achieve the required strength;
- ix. Construction of the liner on a saturated subgrade is prohibited. After a rainfall event, the subgrade shall be given sufficient time to dry or drain to the design moisture content;
- x. Prior to the construction of the liner system, the subgrade shall be tested for density and moisture content, where applicable, at 50 foot intervals on a grid pattern across the subgrade;
- xi. In any area where the foundation is excavated, the side slope to the excavation prior to placement or construction of the liner shall not exceed a vertical rise of one foot for each horizontal distance of three feet; and

xii. Depth to groundwater from the top elevation of the foundation or bottom elevation of the liner shall be as follows:

(1) For sanitary landfills located in a stable low permeable formation having a hydraulic conductivity of less than 1×10^{-6} cm/sec., the depth, within the potentiometric surface, may be determined on a case-by-case basis as approved by the Department. This determination shall be based on the flow characteristics and attenuation capabilities of the geologic formation. There shall be, at a minimum, five feet of soil with a hydraulic of 1×10^{-6} cm/sec. or less between the bottom of the liner system and the aquifer. The depth to or within a perched water table may be less than five feet if this level can be cut-off by passive means, such as a cut-off wall or trench; and

(2) For all other sanitary landfills, depth to the seasonally high groundwater from the top elevation of the foundation shall be, at a minimum, three feet.

(c) The following are the design standards and construction requirements for containment systems:

1. The sanitary landfill containment system shall be designed and constructed in such a manner as to provide a closed system for the leachate generated therein during the operational, closure and post closure periods. The design and construction shall include the use of a liner consisting of recompacted or in-situ clay, an admixture material, geomembrance or composite material, or a cut-off wall consisting of clay or an admixture material.

2. A liner shall be provided to restrict the migration of leachate and to prevent pollution of the underlying aquifers. The minimum requirements for liner construction shall include the following:

i. The liner shall be constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeological forces), physical contact with the waste and leachate, climatic conditions, the stresses of installation, and the stresses of daily operations;

ii. The final grades of the liner shall result in a relatively smooth surface through either fine finishing of the subgrade with use of a scraper/roller or smooth drum rolling of the compacted liner;

iii. The minimum slopes of the liner shall be designed for two percent on controlling slopes and 0.5 percent on remaining slopes following the projected settlement and consolidation as determined in the analysis required at (b)3ii above. Liner slopes shall not exceed 3:1;

iv. The final grades of the liner shall be true to line and deviation of the controlling slopes of the liner shall not result in excessive ponding on the liner or de-

creased efficiency of the leachate drainage system. It is recommended that the deviation be less than 0.2 feet measured across any 10 foot section and less than 10 percent on the overall slope based on design elevations;

v. Survey stakes or plates shall be placed in such a manner as to ensure that the final grades meet the design specifications within the allowed tolerance;

vi. For penetrations through the liner (i.e. collection pipe to pump station), indicating devices, such as survey laths or stakes, shall be utilized at the area of penetration. The landfill should be designed to minimize the construction of penetrations through the liner;

vii. A soil backfill meeting the leachate drainage system requirements set forth in (d) below shall be placed on top of the liner to provide protection for the liner and leachate collection piping system in accordance with the following:

(1) Backfill soils should be placed on top of the liner immediately following completion of construction and testing procedures set forth in x. below. If backfilling operations are to be delayed, procedures as delineated in the approved construction contingency plan required by N.J.A.C. 7:26-2A.5(a)5ii shall be implemented to minimize degradation to the liner system;

(2) The depth of the soil backfill shall be of sufficient thickness to ensure that no damaging load is transmitted to the leachate collection pipe;

(3) The depth of the soil backfill shall be of sufficient thickness to ensure that no damaging load causes the leachate collection pipes to penetrate through the liner;

(4) When placed above a compacted liner the thickness of the soil backfill shall be, at a minimum, 12 inches;

(5) When placed above a geomembrane the thickness of the soil backfill shall be, at a minimum 18 inches;

(6) The soil backfill shall be stable, compatible with the liner system and relatively free of organic matter;

(7) Equipment utilized to place the soil backfill over the liner shall consist of tracked or bulbous tired vehicles or equivalent equipment with relatively low weight transfer ratios; and

(8) Use of the backfill placement equipment shall not result in any damage to the liner system or the final grades. In cases utilizing geomembranes, the use of backfill placement equipment directly on the liner is prohibited and shall be permitted only over a minimum of 12 inches of soil backfill.

viii. All inlet/outlet structures installed through the liner shall be compatible with the liner system and shall be installed in such a manner as to minimize leaking through the penetration in accordance with the following:

(1) The subgrade around the penetration shall be properly compacted to the design density and at the proper moisture content, where applicable, to achieve the required strength;

(2) For compacted liners, the liner material around the penetration shall be hand compacted to the design density, at the proper moisture content to achieve the required hydraulic conductivity and maintain the strength and stability of the liner; and

(3) For geomembranes, a pipe shroud shall be utilized around the penetration. The leg of the pipe shroud shall be of a size equal to the diameter of the pipe. A flange shall be fastened to the leg by factory seaming, and shall overlap the opening in the liner material on all sides by a minimum distance equal to the diameter of the pipe. The pipe shroud leg shall be attached to the inlet-outlet structure by a three-quarter inch stainless steel band.

ix. The liner material shall have a demonstrated hydraulic conductivity or chemical and physical resistance not adversely affected by waste emplacement or leachate generated by the sanitary landfill. Absent historical test results acceptable to the Department, this shall be demonstrated by testing which shall include, but not be limited to, the following:

(1) For compacted liners, E.P.A. Test Method 9100 shall be performed utilizing a solid waste leachate (a synthetic leachate mix approved by the Department may be substituted if existing leachate is unavailable). Initially a baseline hydraulic conductivity of the material shall be established. It is recommended that a modified triaxial device equipped to apply back pressure throughout the entire test be used and that the hydraulic gradient be within the laminar flow range. If changes in the leachate conductivity occur, a minimum of two pore volumes of the leachate shall be exchanged and the changes in conductivity, versus the pore volumes passed, shall be analyzed. Any significant increase in leachate conductivity shall be considered to be an indication of incompatibility and will require a redesign of the containment system; and

(2) For geomembranes, E.P.A. Test Method 9090 shall be performed utilizing a solid waste leachate (a synthetic leachate mix approved by the Department may be substituted if existing leachate is unavailable). The specified physical parameter shall be tested before and after liner exposure. Any significant change in test properties shall be considered to be indicative of incompatibility and will require a redesign of the containment system.

x. The following quality control testing shall be performed on the as-built compacted liner system on an ongoing basis during the construction phase:

(1) Each lift or course of the liner shall be tested for moisture content and density at 50 foot intervals on a grid pattern across the surface. Two tests shall be performed in the immediate area around all inlet/outlet structures;

(2) Measurements shall be made periodically throughout the day during construction of the liner to insure that the lift or course thickness is within the allowable limits and in accordance with the design;

(3) Hydraulic conductivity testing shall be performed on undisturbed core samples of the final graded liner. Initially, such samples shall be taken at 200 foot (61 meter) intervals on a grid pattern across the surface. As the construction progresses, the number of samples may be reduced, as approved by the Department, based on the precision and consistency of the results of the initial sampling program, but at a minimum, one sample per every three acres shall be taken provided the material sources remain constant;

(4) Whenever a sample fails to meet the minimum hydraulic conductivity, the area of failure shall be localized, reconstructed and retested in accordance with the requirements set forth in this subsection;

(5) All core sample holes shall be backfilled and recompacted by hand tamping at the proper moisture content to achieve the minimum liner hydraulic conductivity;

(6) A modified triaxial device, equipped to apply backpressure throughout the entire test, shall be used to measure the hydraulic conductivity after primary consolidation ends. Backpressure should be sufficient to dissolve all air in the specimen and the confining or chamber pressure shall not exceed anticipated landfill design pressure. Deaired tap water or 0.005N CaSO₄ should be used as the permeant and the hydraulic gradient should be within the laminar flow range. Testing shall be conducted in accordance with ASTM Standard D5084-90; and

(7) As a means to verify laboratory permeability tests, field infiltrometer tests (for example, Sealed Double-Ring Infiltration Test, Two-Stage Borehole Test) are recommended. Alternatively, a second quality control laboratory may be used to verify the permeability results against the primary results obtained in (c)2x(6) above. The QA and QC plan, submitted in accordance with N.J.A.C. 7:26-2A.5(a)7, shall specify the method of field permeability verification used, if any.

xi. The following quality control testing shall be performed on the as-built geomembrane liner system on an ongoing basis during the construction phase:

(1) All field seams shall be quality tested after they have been allowed to develop to full strength. Such testing shall be carried out through the use of an air lance with 50 pounds per square inch of air directed through a $\frac{3}{16}$ -inch nozzle or equivalent device. The lance shall be held no more than six inches from the seam edge and shall be utilized to detect any imperfections, tunnels or fishmouths. Any such imperfections in a seam shall be repaired and quality tested until a proper seam is achieved;

(2) Seams shall be tested for peel and shear strength, initially at the beginning of each workday and every 500 linear feet thereafter, on either specially prepared sample seams constructed under the same conditions as the actual seaming process used that day or on a sample cut from the in-place liner; and

(3) During the construction phase, the geomembrane shall be continuously inspected for uniformity, damage, and imperfections (for example, holes, cracks, thin spots, or foreign materials). Immediately after installation, the liner shall be inspected to ensure tight seams and joints. Additionally, the liner shall be inspected to ensure the absence of tears, punctures, or blisters. Any imperfections shall be immediately repaired and reinspected.

3. The minimum requirements and testing for clay material utilized as a sanitary landfill liner shall include the following:

i. The following tests shall be performed on the clay material proposed for use, and all data shall be submitted to the Department. These tests shall be performed in accordance with current ASTM, AASHTO or equivalent methods. The number of samples taken and tests performed shall be adequate to define the material. At a minimum, three analyses shall be performed on three separate samples for each source of clay material:

- (1) Classification;
- (2) Compaction;
- (3) Specific gravity;
- (4) Hydraulic conductivity (coefficient of permeability);
- (5) Porosity;
- (6) pH;
- (7) Cation exchange capacity (total and inorganic);
- (8) Pinhole test (required only for clay liner construction over a coarse grain subgrade); and
- (9) Mineralogy (recommended, not required).

ii. The following tests shall be performed on the in-situ clay material or the clay mined from the borrow site for construction of a recompacted liner. A minimum of one analysis shall be performed on each 16,000 in-place cubic yards of clay:

- (1) Grain size analysis;
- (2) Compaction; and

(3) Hydraulic conductivity (Index properties and grain size analysis may be used to determine the hydraulic conductivity provided the clay has been calibrated to these tests).

iii. The clay liner shall have a hydraulic conductivity equal to or less than 1×10^{-7} cm/sec. A modified triaxial device, equipped to apply back pressure throughout the entire test, shall be used to measure the hydraulic conductivity after primary consolidation ends. Deaired tap water or 0.005N CaSO_4 should be used as the permeant and the hydraulic gradient should be within the laminar flow range. A range of confining pressures, water content, densities and degree of saturation shall be analyzed to determine the optimal design parameters of the clay. Testing shall be conducted in accordance with ASTM Standard D5084-90;

iv. The clay liner shall be applied and compacted in separate lifts, not to exceed the effective depth of the equipment utilized. The thickness of the first lift shall be such that kneading with the subgrade soil does not occur, resulting in even placement of clay on the subgrade. Subsequent lifts should be less than $\frac{2}{3}$ of the length of the tamping feet or its equivalent;

v. Prior to compaction the clay shall be mixed by disc-harrowing or an equivalent method to a homogeneous consistency and each lift of the liner shall be compacted, by modification of the compactive effort, to the design density, and at the proper moisture content, based on the laboratory analysis, to achieve the required hydraulic conductivity and maintain the strength and stability of the clay;

vi. The liner shall be constructed in such a manner as to ensure that bonding between lifts is promoted;

vii. Placement of the clay liner on frozen ground or placement of clay material in a frozen state shall be prohibited;

viii. In-situ clay utilized in the design and construction of a liner system unless exempted by (c)lix below, shall be excavated, mixed by disc-harrowing or an equivalent method to a homogeneous consistency, and recompacted to the density at the proper moisture content, based on laboratory analysis to achieve the required hydraulic conductivity and maintain the strength and stability of the liner; and

ix. In-situ clay liner designs shall be left in the undisturbed state only if it can be fully demonstrated

through the use of excavations, test pits, borings, undisturbed permeability testing, or field infiltration/permeability testing that the undisturbed clay will possess a hydraulic conductivity no greater than 1×10^{-7} cm/sec. and will meet all the requirements and standards of this subchapter.

4. The minimum construction and testing requirements for geomembranes utilized as a sanitary landfill liner shall include the following:

i. The material properties of the geomembrane proposed for use shall meet the minimum requirements as outlined in the most recent version of the National Sanitation Foundation's publication, "Standard Number 54 Flexible Membrane Liners";

ii. The geomembrane shall be compounded from first quality virgin materials. No regrinded or reprocessed materials containing encapsulated scrim shall be used in the manufacturing of the geomembrane;

iii. The minimum thickness for geomembranes shall be 30 mils, 60 mils if High Density Polyethylene;

iv. Single geomembrane liner systems are prohibited. Liner systems utilizing geomembranes shall be either a composite or double liner system constructed in accordance with the following:

(1) A composite liner system may be used only if the clay or admixture material is demonstrated to achieve sufficient strength and stability to insure the integrity of the geomembrane;

(2) If excessive settlement of the foundation is evident, as determined in accordance with N.J.A.C. 7:26-2A.8(b)4, the compressive and tensile strength of the clay or admixture material in the composite system shall be determined. An analysis of the clay or admixture liner strength, in conjunction with the subgrade settlement analysis, shall demonstrate that the design will not result or give cause to failure of the geomembrane. The analysis shall include a factor of safety equal to or greater than 1.5;

(3) The clay or admixture liner within the composite liner system shall be constructed in accordance with the requirements and standards of this subsection;

(4) The thickness of the clay or admixture liner within the composite liner system shall be approved by the Department when the applicant demonstrates that it meets the standards set forth at N.J.A.C. 7:26-2A.6;

(5) In double geomembrane systems or double composite systems a leachate collection system to detect and collect leachate, shall be designed and constructed between the primary (top) and secondary (bottom) liner in accordance with N.J.A.C. 7:26-2A.5(d);

v. The liner shall be installed by a company having a documented minimum qualification of two million square feet of previous landfill or comparative geomembrane systems installation experience. This experience shall be available, at a minimum, at the field crew foreman level;

vi. The liner shall be installed in a smooth but relaxed manner. The practice of inserting folds into the liner to compensate for future settlement is not an acceptable practice to prevent failure;

vii. All field seams within the area of an excavated slope shall be made perpendicular to the toe of slope;

viii. Parallel field seams made at the bottom of an excavated slope shall be made no closer than 24 inches in from the toe of slope;

ix. The adhesive system of the field seaming to be employed shall be defined;

x. The peel and shear strength data of the field seams shall be submitted; and

xi. The following field seaming requirements shall be employed, unless manufacturer's recommended procedures demonstrate equivalent or better systems:

(1) Field seams made by employing solvent or bodied solvent adhesive shall have a minimum of six inches of overlap and a seam width of four inches from the edge of the top geomembrane; and

(2) Field seams made by employing heat extrusion or welding shall have a minimum of three inches of overlap and a seam width of one inch from the edge of the top geomembrane;

(3) Field seams for bottom liners employing solvent or bodied solvent, after quality control testing and repairs, shall incorporate a cap-strip of unreinforced material a minimum of four inches in width centered over the seam. The cap-strip shall be field seamed in accordance with (c)4ix(1) and (2) above, and quality control tested as required by N.J.A.C. 7:26-2A.7(c)2xi;

xii. Field seaming procedures are prohibited when the ambient air temperature is less than 40°F (4.5°C), during storm events, or when winds are in the excess of 20 miles per hour (32 km/hr). Alternatively, temporary shelters equipped with a heat source may be used so that the ambient air temperature inside the shelter is not less than 40°F; and

xiii. The geomembrane shall be anchored a minimum of 24 inches horizontally back from the edge of the top of the slope. The liner shall be anchored by cutting a trench 12 to 16 inches in depth, laying the liner across three sides of the trench, backfilling the trench, and compacting the backfill material.

5. The minimum requirements and testing for hydraulic asphalt concrete utilized as a sanitary landfill liner material shall include the following:

i. The following tests shall be performed on the hydraulic asphalt cement proposed for use, and all data shall be submitted to the Department. All tests shall be performed in accordance with ASTM, AASHTO or equivalent methods.

- (1) Grain size analysis of the mineral aggregate;
- (2) Density of the mineral aggregate and the asphalt mix;
- (3) Percent void in the compacted mix;
- (4) Swell test;
- (5) Penetration test;
- (6) Stability-triaxial compression test; and
- (7) Hydraulic conductivity of the mix.

ii. The hydraulic asphalt concrete liner for Class I sanitary landfills shall be designed and constructed to meet the performance requirements of N.J.A.C. 7:26-2A.6(c)1 and 2. In no case shall the hydraulic asphalt concrete liner for Class I sanitary landfills be less than six inches thick. For Class II sanitary landfills, the thickness of the liner may be reduced, as approved by the Department, depending on the waste material to be disposed of and the geologic siting of the sanitary landfill, but in no case shall the liner thickness be less than four inches;

iii. To ensure that complete mixing of the hydraulic asphalt concrete is accomplished, a central mixing plant shall be used. The plant shall include a means for accurately proportioning the material, as determined by laboratory analysis, either by weighing or by volumetric measurement, to ensure that the mixture shall meet the designed hydraulic conductivity;

iv. The plant shall be capable of producing a uniform mixture within permissible variation from the mix formula and should include a continuous mixer of a twin pug mill type;

v. Tanks for storage of the asphalt within the central mixing plant shall be equipped to heat the entire contents uniformly to the temperature required for the mixture;

vi. The following quality control testing shall be performed at the central mixing plant to ensure uniformity of the mix. The testing shall be performed at a minimum of once per every 300 cubic yards, except for temperature which shall be monitored continuously:

- (1) Temperature of the mix;
- (2) Grain size analysis; and
- (3) Percent asphalt.

vii. The design mix of the hydraulic asphalt concrete shall result in a final product of dense-graded asphalt concrete with a maximum penetration grade of 60-70;

viii. The asphalt content of the mix shall be of sufficient quantity to ensure that the mixture meets the required design hydraulic conductivity based on laboratory analysis. It is recommended that at a minimum, the asphalt content be 9.5 percent by volume;

ix. Placement of the asphalt concrete liner is prohibited when the ambient air temperature is below 40°F (4.5°C) or during storm events;

x. The mix shall have a high degree of workability while hot, be stable enough to support its own weight on side slopes, and shall have a smooth finished surface;

xi. The liner shall be applied in courses with a maximum depth of two inches per course;

xii. The liner shall be applied utilizing a staggered joint construction technique and placement of the course shall, to all practical extent, be a continuous operation;

xiii. The hydraulic asphalt shall be compacted to at least 98 percent of laboratory density and should have a maximum void ratio not to exceed two percent. The compacted percentage shall be measured by utilizing the Marshall Test Method;

xiv. When applying the finished product on side slopes, the material shall initially be deposited at the toe of the slope, and then pushed up the grade of the slope;

xv. After the hydraulic asphalt concrete has been compacted and allowed to cure for sufficient time to obtain its maximum strength, a sealant coating shall be applied to the surface.

6. The minimum requirements and testing for soil cement utilized as a sanitary landfill liner material include the following:

i. The following tests, performed in accordance with appropriate ASTM, AASHTO or equivalent methods shall be performed on the soil cement mixture proposed for use, and all data shall be submitted to the Department.

- (1) Grain size analysis of aggregate;
- (2) Soil cement content;
- (3) Wetting and drying;
- (4) Freezing and thawing;
- (5) Compressive strength;
- (6) Compaction; and

(7) Hydraulic conductivity.

ii. The soil cement liner for Class I sanitary landfills shall be designed and constructed to meet the performance requirements of N.J.A.C. 7:26-2A.6(c)1 and 2. In no case shall the soil cement liner for Class I sanitary landfills be less than two feet thick. For Class II sanitary landfills, the thickness of the liner may be reduced, as approved by the Department, depending on the waste material disposed of and the geologic siting of the sanitary landfill, but in no case shall the liner thickness be less than one foot;

iii. To ensure that complete mixing is accomplished, a central mixing plant shall be used. The plant shall include the means for accurately proportioning the material as determined by laboratory analysis, either by weighing or by volumetric measurement, in order that the mixture shall meet the designed hydraulic conductivity requirement;

iv. The plant shall be capable of producing a uniform mixture, within permissible variation, from the mix formula and shall include a continuous mixer of a twin pug mill type;

v. The following quality control testing shall be performed at the control mixing plant at a minimum of once per every 300 cubic yards of mixture to ensure uniformity of the mix:

- (1) Grain size analysis of the aggregate; and
- (2) Percent cement.

vi. Placement of soil cement liner is prohibited when the ambient air temperature is below 40°F (4.5°C) or during storm events;

vii. The transportation time from the central mixing plant to the construction site shall not exceed 30 minutes;

viii. No more than 60 minutes shall elapse between the start of mixing and the start of compaction. The compaction process shall be started within 30 minutes after the material is applied. The compaction process shall be completed within 1 ½ hours after the mixing process is completed;

ix. It is recommended that the mixture be applied by a mechanical spreader in nine-inch loose lifts, and then compacted to six-inch layers. The soil cement should be compacted initially with a sheep foot roller, and then followed by a smooth wheeled vibrating roller;

x. The soil cement should be compacted to the design density, at the proper moisture content, based on the laboratory analysis, to achieve the required hydraulic conductivity and maintain the strength and stability of the liner;

xi. No later than 24 hours after compaction is completed, a bituminous or asphaltic emulsion seal (MC-20 or equivalent) shall be applied to the completed surface; and

xii. The addition of additives to the mix are prohibited except with the approval of the Department.

7. Minimum requirements and testing for bentonite utilized as a sanitary landfill liner material include the following:

i. The compatibility of leachate with the proposed bentonite amended soil admixture shall be evaluated. In addition, the following tests shall be performed on the bentonite proposed for use, and all data shall be submitted to the Department. All tests shall be performed in accordance with appropriate ASTM, AASHTO or equivalent methods:

- (1) Swelling index;
- (2) Layer permeability;
- (3) Colloidal yield; and
- (4) Cation exchange capacity.

ii. The following tests shall be performed on the bentonite/soil mixture proposed for use, mixed under field conditions with site water proposed for use, in accordance with ASTM, AASHTO or equivalent methods:

- (1) Grain size analysis of aggregate;
- (2) Bentonite content;
- (3) Compaction; and
- (4) Hydraulic conductivity.

iii. To ensure that complete mixing is accomplished, a central mixing plant shall be used. The plant shall include the means for accurately proportioning the material, as determined by laboratory analysis, either by weighing or by volumetric measurement, in order that the mixture shall meet the required design hydraulic conductivity;

iv. The plant shall be capable of producing a uniform mixture within permissible variation from the mix formula and should include a continuous mixer of a twin pug mill type;

v. The following quality control testing shall be performed at the central mixing plant at a minimum of one test per every 300 cubic yards of mixture to ensure uniformity of the mix:

- (1) Grain size analysis of the soil; and
- (2) Percent bentonite.

vi. Placement of the bentonite liner in a frozen state or on frozen ground is prohibited;

vii. The bentonite/soil mixture shall be applied by a mechanical spreader in a maximum of nine-inch loose lifts and compacted with a smooth drum vibratory compactor or rubber-tired compactor;

viii. The bentonite/soil mixture shall be compacted to the design density at the proper moisture content range, based on the laboratory analysis, to achieve the required hydraulic conductivity, and maintain the strength and stability of the liner.

8. A cut-off wall shall be constructed in those areas, where needed, to restrict the lateral migration of leachate, provide for a closed containment system, and prevent pollution of the underlying aquifer. The minimum requirements for cut-off wall construction include the following:

i. Borings shall be taken at 200 foot intervals along the proposed route of the cut-off wall. These borings shall extend to a depth at least three feet into the confining layer. In clay cut-off wall constructions, the boring interval may be increased, but shall be no greater than 500 feet, provided the excavation is continuously logged and inspected for conformance with the boring data by a qualified geologist or geotechnical engineer;

ii. Hydraulic conductivity tests of the confining layer shall be performed on undisturbed core samples at every other boring location;

iii. The cut-off wall shall extend a minimum of three feet into the confining layer. A lesser distance may be acceptable, if approved by the Department, provided the wall extends to competent rock;

iv. The cut-off wall shall be stable under all conditions, including long term and end of construction conditions, and shall not be susceptible to displacement or erosion under stress or hydraulic gradient;

v. Prior to construction the cut-off wall material shall be tested in accordance with (c)2ix above, to ensure that the material has a conductivity or chemical and physical resistance which will not be adversely affected by waste emplacement or the leachate generated by the sanitary landfill.

9. In addition to the requirements of (c)8 above, the minimum requirements and testing for clay utilized for cut-off wall construction include the following:

i. The tests performed, as specified in (c)3i and ii above, shall be performed on the clay material proposed for use in the cut-off wall.

ii. The cut face of the excavation shall be stable for all conditions that will be encountered during the excavation, including appropriate factors of safety for the material encountered;

iii. The clay cut-off wall shall be constructed to a minimum thickness of three feet;

iv. The clay cut-off wall shall have a hydraulic conductivity equal to or less than 1×10^{-7} cm/sec.;

v. The clay cut-off wall shall be constructed in separate lifts not exceeding the effective depth of the equipment utilized and in a manner which will ensure that bonding between lifts is promoted;

vi. Each lift of the clay cut-off wall shall be compacted to the design density, at the proper moisture content, to achieve the required hydraulic conductivity and maintain the strength and stability of the cut-off wall;

vii. Each lift shall be tested for moisture content and density at 50-foot intervals along the length of the construction; and

viii. Hydraulic conductivity testing shall be performed on undisturbed core samples of the constructed, compacted clay cut-off wall at 200-foot intervals along the route of the wall in order to verify in-field permeability of the constructed wall. Whenever a section of the compacted clay cut-off wall fails to meet the minimum permeability standard established in the QA and QC Plan submitted in accordance with N.J.A.C. 7:26-2A.5(a)7, that section shall be retested and/or reconstructed as defined by the QA and QC Plan. All core sample holes shall be backfilled and recompacted by hand tamping at the proper moisture content to achieve the minimum requirement hydraulic conductivity. The modified triaxial device procedures, as set forth in (c)2x(6) above, shall be utilized to measure the hydraulic conductivity;

10. In addition to the requirements of (c)8 above, the minimum requirements and testing for soil and bentonite or cement utilized for slurry cut-off wall construction include the following:

i. The tests specified in (c)7i above, shall be performed on the bentonite proposed for use;

ii. The following tests shall be performed on the bentonite slurry proposed for use, mixed under field conditions with site water proposed for use in construction of the slurry wall, and all data shall be submitted to the Department:

- (1) Bentonite content and cement content, where applicable;
- (2) Marsh Cone viscosity;
- (3) Marsh Cone gelation;
- (4) Gel strength, initial and 10 minute strength;
- (5) pH;
- (6) Filtration loss;

- (7) Filter cake—thickness and strength; and
- (8) Sand content.

iii. The following tests shall be performed on the backfill proposed for use, mixed under field conditions, and all data shall be submitted to the Department:

- (1) Grain size analysis;
- (2) Slump;
- (3) Blowout tests, if the design or existing gradient is greater than 30; and
- (4) Cement content, where applicable.

iv. The water utilized in the slurry mix and the backfill shall be analyzed for the following parameters:

- (1) pH;
- (2) Chloride;
- (3) Total dissolved solids;
- (4) Hardness; and
- (5) Total volatile organics.

v. The water utilized in the slurry mix and the backfill shall be free of oil and organic matter, be relatively free of impurities and be in the neutral pH range;

vi. When the depth to the confining layer is less than 100 feet, the thickness of the wall shall be 0.6 feet per 10 feet of hydrostatic head on the wall and shall, at a minimum, be three feet;

vii. When the depth to the confining layer is greater than 100 feet, slurry wall thickness shall be determined on a case by case basis. This determination shall be based on a comprehensive engineering analysis of the ability of a given wall thickness to resist failure;

viii. There shall be a sufficient percent of fines in the backfill material to achieve a hydraulic conductivity equal to or less than 1×10^{-7} cm/sec.;

ix. The backfill material shall be completely mixed in such a manner as to ensure a consistent quality of the material;

x. A slump test and gradation analysis shall be performed at a minimum of one sample for every 300 cubic yards of backfill mixture;

xi. A viscosity and density analysis of the slurry shall be performed at a minimum of twice daily;

xii. The backfill mixture shall not be put in place until the trench has been inspected, measured, approved, and certified by a New Jersey licensed professional engineer, or his agent who shall be a qualified geologist or geotechnical inspector, to ensure that the trench has penetrated a sufficient depth into the aquiclude;

xiii. A minimum of three feet of slurry head shall be maintained in the excavation above the maximum anticipated groundwater level and the slurry head should not fall below one foot of the ground surface elevation;

xiv. The backfilling of the slurry cut-off wall shall be performed by one of the two following methods. In either case, free dropping of the backfill into the trench through the slurry is prohibited;

(1) Backfill shall be placed by use of a tremie process; or

(2) Backfill shall be placed into a pre-cut trench in which a minimum backfill slope of six horizontal to one vertical (6:1) has been established.

xv. The backfill process shall continue until sufficient material has been placed in the slurry trench to permit the backfill material to become exposed at the top of the trench;

xvi. A three-foot thick layer of clay core soil backfill shall be placed on top of the complete portion of the cut-off wall after it has reached its intended level and before it is allowed to dry out;

xvii. Upon the completion and stabilization of the backfilling process of the cut-off wall, hydraulic conductivity testing of undisturbed core samples of the back-filled trench shall be performed at 200 foot intervals to verify the hydraulic conductivity of the wall. Whenever a section of the cut-off wall fails to meet the minimum permeability standard established in the QA and QC Plan submitted in accordance with N.J.A.C. 7:26-2A.5(a)7, that section shall be retested and/or reconstructed as defined by the QA and QC Plan. All core sampling holes shall be refilled and recompacted to meet the minimum hydraulic conductivity; and

xviii. In the event that a failure of the slurry trench or construction platform should occur, the trench and backfill material shall be excavated and reconstructed, at a minimum, for a length of 100 feet from the outside point of failure in each direction. The hydraulic conductivity of the reconstructed portion of the wall shall be verified through hydraulic conductivity testing of undisturbed core samples in accordance with xvii above.

(d) The following are the design standards and construction requirements for leachate collection systems:

1. The leachate collection system shall consist of a leachate drainage system and a leachate removal system;

2. A leachate drainage system shall be designed and constructed to provide for effective drainage of the leachate generated within the proposed sanitary landfill in accordance with the following:

i. The slope, hydraulic conductivity and porosity of the drainage layer and the spacing of the collection pipes of the leachate drainage system shall be designed in such a manner as to ensure that the performance and efficiency requirements of N.J.A.C. 7:26-2A.6(d)1 and 2 are met during the operational life of the facility;

ii. The following tests shall be performed on the soil proposed for use in the drainage layer and all data shall be submitted to the Department. These tests shall be performed in accordance with current ASTM, AASHTO or equivalent methods. The number of samples taken and tests performed shall be adequate to define the material. At a minimum, three analyses shall be performed on three separate samples for each source of drainage material.

- (1) Classification;
- (2) Porosity;
- (3) Relative density or compaction; and
- (4) Hydraulic conductivity.

iii. The leachate drainage system shall be designed utilizing the latest version of the Hydrologic Evaluation of Landfill Performance (HELP) model, developed by the United States Army Corp of Engineers (USAE) Waterfront Experiment Station, to evaluate liquid management systems.

iv. Data from the nearest meteorological station to the site with a minimum data base of five years, shall be utilized to design the leachate drainage system;

v. The hydraulic conductivity required by N.J.A.C. 7:26-2A.6(d)2 for the drainage layer may be less than 1×10^{-2} cm/sec provided the performance and efficiency required by N.J.A.C. 7:26-2A.6(d)1 and 2 and the performance standard in N.J.A.C. 7:26-2A.6(c) are met. The hydraulic conductivity of the drainage layer shall be equal to or greater than 1×10^{-3} cm/sec after compaction. It is recommended that a granular filter or geotextile be designed and constructed above the drainage layer to minimize the intrusion of fines into the drainage layer;

vi. The drainage layer shall be designed and constructed in such a manner as to maintain laminar flow throughout the system to prevent scouring of the liner;

vii. The following quality control tests shall be performed on the soil utilized within the drainage layer of the leachate collection system:

- (1) Hydraulic conductivity;
- (2) Relative density or compaction;
- (3) Grain size analysis; and
- (4) Drainage layer thickness.

viii. The tests required in vii above shall be performed in accordance with ASTM, AASHTO or equivalent methods and in accordance with the following schedule:

(1) Hydraulic conductivity and grain size analysis shall be performed once per every 3,000 cubic yards of in-place fill material. The hydraulic conductivity may be determined from the grain size analysis, provided the hydraulic conductivity is calibrated to the particular grain size distribution of the soil used;

(2) Relative density or compaction tests shall be performed on the complete drainage layer at 50 foot intervals on a grid pattern across the surface; and

(3) Drainage layer thickness shall be measured periodically throughout the day during construction to ensure that the thickness is within allowable limits and in accordance with the design.

ix. The drainage layer shall have the appropriate minimum thickness specified in (c)2vii above. Furthermore, based on the design permitted by i above, the drainage layer shall be constructed with a minimum depth equal to, or greater than, the maximum anticipated leachate head generated within the landfill during the operational life of the landfill.

3. A leachate removal system shall be designed and constructed to provide for removal of the leachate within the drainage system to a central collection point for treatment and disposal in accordance with the following:

i. The following tests shall be performed in accordance with ASTM methods, or an equivalent determination shall be performed on the material proposed to be utilized in the leachate collection piping system:

(1) For rigid pipes, a three-edge bearing test shall be performed under 0.1 inch crack loading and ultimate loading conditions;

(2) For flexible pipe, a parallel plate deflection test shall be performed under five percent deflection and buckling capacity loading conditions;

ii. The piping material utilized within the leachate removal system shall possess an adequate structural strength to support the maximum anticipated static and dynamic loads and stresses that will be imposed on the pipe by the drainage layer, gravel pack, overlying wastes, and any equipment used at the sanitary landfill. The supporting strength of the pipe shall be equal to, or greater than, the loads and stresses imposed on the pipe with, at a minimum, a factor of safety of 1.5;

iii. The material utilized for the piping system shall have demonstrated chemical resistance to the wastes to be disposed of in the landfill and the leachate expected to be produced within the proposed sanitary landfill. The requirement for demonstrated chemical resistance shall be satisfied either by the use of ASTM approved

chemically resistant piping material or by testing the piping material in accordance with the requirements of (c)2ix(2) above;

iv. The piping system shall have a slope that will provide a self-cleaning velocity within the pipe based on actual maximum flows from the area of drainage. The minimum flow velocity should not be below two feet per second as designed based on full flow or half flow capacity;

v. The leachate collection piping located within the disposal area shall have, at a minimum, an inside diameter of six inches and shall be capable of handling peak flows;

vi. Leachate collection gravity mains located outside of the disposal area shall have, at a minimum, an inside diameter of eight inches and shall be capable of handling peak flows;

vii. The piping system shall employ flexible joints to allow for at least 0.5 degree movement between the pipe sections;

viii. The final grades of the piping system should be true to line and the departure from grade and alignment of the piping system shall not result in excess ponding on the liner or reduced efficiency of the leachate collection system. The maximum allowable departure from grade should not exceed 10 percent of the inside diameter of the collection pipe;

ix. The collection pipes shall be designed to function without clogging throughout the operational phase of the proposed sanitary landfill. The collection pipes shall be constructed within a coarse gravel envelope inside a geotextile fabric. The material utilized in the coarse gravel envelope shall meet the specifications, or equivalent, of the cumulative grain size distribution curves calculated in accordance with (d)3ix(1) through (5) below, where "D" equals the effective size or diameter of the soil particles;

(1) The envelope aggregate shall be compatible with the material with which it is placed in contact;

(2) D_{15} (filter envelope) < 5
 D_{85} (soil backfill)

(3) D_{15} (filter envelope) > 5
 D_{15} (soil backfill)

(4) for slotted pipes:
 D_{85} (filter envelope) > 1.2
slot Width

(5) for circular holes:
 D_{85} (filter envelope) > 1.2; and
hole diameter

(6) The envelope thickness should be a minimum of 10 cm. around the pipe and should be related to the D50 of the envelope/drainage layer ratio in accordance with Table II below:

TABLE II

Envelope/drainage layer D50 ratio	Envelope thickness (cm)
≤24	10
24-28	15
28-40	23
40-50	30

x. When the requirements of (d)3ix above cannot be satisfied by a one-layer envelope, a zoned envelope or equivalent shall be constructed that satisfies the specifications in ix. above;

xi. The collection pipe shall be installed within a depression constructed within the liner or liner and subgrade, and shall meet the following minimum specifications:

(1) A minimum of three inches of bedding material shall be placed at the bottom of the trench; and

(2) The depth of the depression should, at a minimum, be equal to the outside diameter of the pipe plus the bedding material.

xii. An interior grid herringbone or offset herringbone system shall be employed, when needed, to ensure that the maximum leachate head exerted on the liner does not exceed the design head and that it controls the leachate head throughout the proposed sanitary landfill;

xiii. The drainage distance between the collection pipes shall not exceed 300 feet. This drainage distance may be increased if geonets are used in the design in conjunction with drainage pipes;

xiv. Construction and earth-moving equipment shall be prohibited from operating over the piping system, and sanitary landfill equipment shall be prohibited from operating over the piping system until a minimum of five feet of refuse has been mounded over and around the pipe;

xv. Manholes or cleanout risers shall be located along the perimeter of the leachate removal system. The number and spacing of the manholes or cleanout risers shall be sufficient to insure proper maintenance of the leachate removal system by water jet flushing or an equivalent method;

xvi. A rubber gasket or an equivalent seal to ensure a tight joint shall be installed between the sump or manhole inlet and the collection pipe. A flexible pipe joint shall be connected to the manhole and a second flexible pipe joint shall be installed within the piping system within three feet of the first flexible pipe joint;

xvii. Material used for the construction of the manhole or cleanout riser shall have a demonstrated chemical resistance to the leachate expected to be produced within the sanitary landfill;

xviii. The leachate collection system shall be designed to drain by gravity to a sump system. In double lined systems, the leachate collection piping systems shall be designed to drain to separate independent sumps;

xix. The sumps, pumps, and pumping station capacity shall be designed based on an evaluation of percolation, resulting from precipitation and infiltration into the system through the side or bottom of the liner or cut-off wall;

xx. Sumps located outside of the lined area shall be a prefabricated structure coated inside and outside with a minimum of two coats of waterproofing sealant. The joints between the sump section shall be sealed with a rubber gasket or equivalent seal and grouted to ensure a watertight seal;

xxi. All sumps shall be tested for watertightness prior to the startup of landfilling operations in accordance with the following:

(1) The sumps shall be filled with water and covered;

(2) The depth of water elevation shall be measured daily for a period of five days;

(3) Any significant decrease in the depth of water within the sump shall be an indication of failure. The sump which fails the test shall be recoated with waterproofing sealant and the joints regouted. The sump shall be retested for watertightness in accordance with this subparagraph. If failure of the retest should occur the sump shall be reconstructed.

xxii. Should the sumps be located outside of the lined area, the sumps shall be lined with a geomembrane with a leak detection system;

xxiii. The pump station shall be housed in a suitable structure capable of protecting the pumps, motors and electrical equipment in accordance with, but not be limited to, the following:

(1) Explosion-proof equipment for the pump motors and electrical equipment shall be utilized and shall be constructed in accordance with the most current version of the National Electrical Code, "Special Occupancy, Hazardous Location", Volume 6 of the National Fire Code published by the National Fire Prevention Association;

(2) Adequate lighting and ventilation, where necessary, shall be provided. The ventilation system of the pump station shall be constructed in accordance with the most current version of the National Fire Code, "Explosion Venting" Volume 14, published by the National Fire Prevention Association;

(3) The leachate pumping system shall be designed to prevent overflow in the event of a power outage. It is recommended that back-up electric power be

provided at all times from an on-site generator or separate utility substation in the event that the overall leachate storage capacity is compromised during a power outage;

(4) Automatic sound alarms, operating independently of the pump station power, shall be installed to give warning of high water, power failure, or breakdown. The alarm system shall be wired to the location where assistance will be available to respond to the emergency;

(5) The total number of operating pumps as determined in accordance with (6) below, shall be designed to handle the maximum expected leachate production for the area of drainage based on the average peak monthly flow;

(6) A minimum of two pumps shall be provided in the leachate pump station. The number of pumps should be designed based on the requirements of Table III below:

TABLE III

Total Flow to Pump Station	Number of Pumps in the Pump Station
500 gpm	2 pumps (1 standby);
500-1500 gpm	3 pumps (2 operating, 1 standby); and
1500-3000 gpm	4 pumps (3 operating, 1 standby);

(7) If more than two pumps are provided, their capacity shall be such that upon failure of the largest pump the remaining pumps shall be capable of handling the maximum expected leachate production for the area of drainage based on the average peak monthly flow.

(e) A leachate treatment and disposal system shall be designed and constructed in accordance with the following:

1. All leachate treatment and disposal systems shall be required to obtain a NJPDES permit in accordance with the NJPDES regulations, N.J.A.C. 7:14A;

2. The leachate treatment and disposal system shall be designed in accordance with one of the following options:

i. Complete treatment on-site with direct discharge to surface or groundwater;

ii. Pretreatment on-site, if required, with discharge to an off-site treatment works for final treatment; or

iii. Storage on-site with discharge to an off-site treatment works for complete treatment.

3. Leachate recirculation within the sanitary landfill shall not be permitted as a sole leachate disposal option. Leachate recirculation shall, however, be permissible as part of an overall leachate management system (that is, to enhance biodegradation of the landfilled solid waste) provided that the sanitary landfill has, at a minimum, a composite liner system with a leachate collection system

which will ultimately discharge the leachate for disposal in accordance with (e)2 above;

4. Leachate storage prior to treatment shall be within tanks constructed and installed in accordance with (e)13 below;

5. Storage of leachate for a period exceeding one month shall be prohibited except as set forth at (e)10iii below during start-up operations;

6. The following requirements shall be met prior to start-up of sanitary landfilling operations:

i. The leachate treatment and disposal system shall be on line and fully operational;

ii. An agreement with a treatment works facility to accept the leachate shall be in place if either option (e)2ii or iii above was elected for use with the sanitary landfill; and

iii. All necessary Federal, State and local permits for the treatment and disposal system shall have been obtained.

7. All leachate treatment and disposal systems shall be designed and constructed to prevent anaerobic conditions from developing;

8. All leachate treatment and disposal systems shall be designed and constructed to control odors pursuant to N.J.A.C. 7:27;

9. For all leachate discharges planned for publicly owned treatment works (P.O.T.W.), the owner and/or operator shall determine the acceptability of such discharges on the operations of the P.O.T.W. in accordance with the NJPDES regulations, N.J.A.C. 7:14A;

10. In addition to complying with the requirements of the NJPDES regulations, N.J.A.C. 7:14A, the Rules and Regulations for the Preparation of Plans for Sewer Systems and Wastewater Treatment Plants, N.J.A.C. 7:9-1, and the Pretreatment Standards for Sewerage, N.J.S.A. 58:11-49.1 et seq., on-site complete treatment or pretreatment facilities shall be designed and constructed in accordance with the following:

i. The on-site treatment unit shall be designed based on the results of a treatability study, the results of the operations of a pilot scale plant or written information documenting the performance of an equivalent leachate treatment system;

ii. On-site treatment units shall be designed and constructed by staging of the units to allow for on-line modification of the treatment facility to account for variability of the leachate quality and quantity; and

iii. The use of mobile or temporary treatment units may be permitted prior to the construction of a permanent facility satisfying the requirements of 6 above, provided that in all cases a permanent leachate treatment and disposal system shall be on-line within 12 months.

11. The residuals from any treatment facility shall be analyzed in accordance with the requirements of the Sludge Quality Assurance Regulation, N.J.A.C. 7:14-4, and disposal of in accordance with the following:

i. The analysis shall be submitted to the Bureau of Hazardous Waste Planning of the Division of Solid and Hazardous Waste for classification;

ii. Should the sludge be classified as a non-hazardous waste, the sludge shall be disposed of at a solid waste facility permitted to accept the waste type ID classification; and

iii. Should the sludge be classified as a hazardous waste the material shall be disposed of in accordance with N.J.A.C. 7:26G.

12. In addition to complying with the requirements of N.J.A.C. 7:14A-10.7, the Dam Safety Standards, N.J.A.C. 7:20, and the Standards for Soil Erosion and Sedimentation Control, N.J.A.C. 2:90, surface impoundments utilized as on-site treatment units shall be designed and constructed in accordance with the following:

i. Surface impoundments shall include a liner system that is designed to meet or exceed the performance standards set forth in N.J.A.C. 7:26-2A.6(d)1 and 2 under the maximum anticipated hydrostatic head and the liner shall be constructed in accordance with (b) and (c) above;

ii. Surface impoundments shall be designed and constructed to contain the expected flow with sufficient reserve capacity to contain accumulated precipitation from previous rainfall events and sediment and sludge accumulation;

iii. The stability of the surface impoundment dikes shall be determined, as appropriate, for long term, short term or rapid drawdown conditions by modeling techniques and the factor of safety shall be within the minimum values set forth in Table II in (e)3i above;

iv. The inner and outer slopes of all dikes of the surface impoundment shall not exceed a 3:1 slope;

v. The inflow to the surface impoundment shall be designed and constructed so that any flow of waste into the impoundment can be immediately shut-off; and

vi. Upon closure of the surface impoundment, unless the surface impoundment is within the containment and leachate collection systems of the landfill area, the surface impoundment shall be removed and disposed of in accordance with (e)11 above and NJPDES regulations, N.J.A.C. 7:14A.

13. The minimum standards for the design and construction of leachate storage tanks include the following:

i. The tank shall be constructed of or lined with material which has a demonstrated chemical resistance to the leachate expected to be produced within the landfill and contained within the tank;

ii. The storage tank area shall have a liner system consisting of a minimum of 18 inches of clay or a single 30 mil geomembrane and a leachate collection system. The liner system and leachate collection system shall be capable of containing and collecting any spills of leaks and shall be designed and constructed in accordance with (b), (c) and (d) above. Double walled tanks constructed on a concrete slab are acceptable alternatives.

iii. The storage tank shall be designed in accordance with American Petroleum Institute (API), Underwriters Laboratory (UL), or American Concrete Institute (ACI) standards or an equivalent standard depending on the material used, such as metal, fiberglass reinforced plastic, or concrete, and the minimum shell thickness shall be equivalent to a $\frac{3}{16}$ th of an inch metal tank;

iv. All storage tanks shall be equipped with a venting and odor control system. The venting system shall be Low-Pressure Storage Tank or an equivalent design and permitted in accordance with N.J.A.C. 7:27-8;

v. Control of emissions and odors from the storage tank shall be in compliance with the rules and regulations of the Bureau of Air Pollution Control, N.J.A.C. 7:27;

vi. All storage tanks shall be equipped with a high liquid level alarm or warning device. The alarm system shall be wired to the location where assistance will be available to respond to the emergency; and

vii. All storage tanks shall be constructed and maintained in accordance with applicable provisions of the NJPDES regulations including, but not limited to, N.J.A.C. 7:14A-10.7.

14. Spray irrigation of treated effluent systems shall be designed and constructed in accordance with the NJPDES regulations, specifically N.J.A.C. 7:14A-10.9.

i. The spray irrigation system shall not result in increased hydraulic head on the liner system in excess of the design head.

(f) The following are the design standards and construction requirements for sanitary landfill gas collection and venting systems:

1. Sanitary landfill gas collection and venting systems shall be designed and constructed to prevent and control the migration of sanitary landfill gases off-site and shall

consist of a perimeter collection system or an interior collection system or both which shall:

i. Prevent and control the accumulation of any methane concentrations in any structure;

ii. Prevent and control damage to vegetation beyond the perimeter of the property on which the sanitary landfill is located; and

iii. Contain malodorous gaseous emissions on-site.

2. All gas venting and collection systems shall be permitted in accordance with the rules and regulations of the Bureau of Air Pollution Control, N.J.A.C. 7:27;

3. The detection of 25 percent of the lower explosive limit of combustible landfill gases, at the perimeter of the sanitary landfill property, or any concentration of any landfill gases within any structures shall trigger the construction of an induced draft or active venting system which shall be designed and constructed in accordance with the following:

i. The perimeter gas collection and venting system shall be designed and constructed to prevent and control landfill gas migration;

ii. Passive gas venting systems may be designed and constructed initially as a preventive measure against sanitary landfill gas migration. In situations where gas migration is detected in amounts greater than or equal to the limits set forth in (f)3 above, passive gas venting systems are prohibited;

iii. The Department may require the construction of an active gas collection system if a significant concentration of gas is detected within the setback area which in the opinion of the Department poses a threat to the health and welfare of the surrounding community. The design of the gas extraction system shall be based on the following:

(1) The design of an active venting system shall be accompanied by engineering calculations computing the volumes influenced, extraction flow rates (based on zone of influence, ground surface and base grade elevations, gas generation rate and density of refuse) and blower sizing requirements (based on total negative head and volume of gas to be extracted); and

(2) The quantity of landfill gas condensate generated as a function of time shall be computed. Disposal methods for gas condensate shall be described.

(3) Detailed plans of the active venting system shall adequately delineate in plan views and in cross-sectional views, the elevations of all gas collection lines, inverts, valves, extraction well locations and depth of construction materials.

iv. The number of collection well pipes shall be determined by (f)10 below and be sufficient to prevent any off-site gas migration; and

v. The depth of the gas collection wells shall be sufficient to prevent migration of sanitary landfill gases off-site in accordance with the following:

(1) When located within the lined area of the sanitary landfill, the gas collection wells shall not result in or give cause to failure of the liner or leachate collection systems; and

(2) When located outside of the lined area of the sanitary landfill, the gas collection wells shall be constructed, at a minimum, to the bottom of the liner system or to the top of the groundwater table whichever is higher.

4. The sanitary landfill shall not cause any air contaminant, including an air contaminant detectable by the sense of smell, to be present in the outdoor atmosphere in such quantity and duration which is, or tends to be, injurious to human health or welfare, animal or plant life or property, except for malodorous emissions emanating from the sanitary landfill which result in odors in areas over which the owner and/or operator has exclusive use or occupancy. Malodorous gaseous emissions emanating from the sanitary landfill which result in odors being detected in any off-site area of human use or occupancy shall be cause for requiring the construction of the interior gas collection and venting system which shall be designed and constructed in accordance with the following:

i. The interior gas collection and venting system shall be designed and constructed to control malodorous emissions resulting from gaseous emissions. The gas collection system shall also be connected to the leachate collection system to control odors;

ii. The interior collection system shall be an induced draft or active venting system;

iii. The number of collection wells shall be determined by (f)10 below and be sufficient to control malodorous emissions; and

iv. The depth of the collection wells shall not result in or give cause to failure of the liner or leachate collection systems.

5. Sanitary landfills in which active gas collection systems are constructed should, to the extent practicable, develop a gas recovery system in which the gas or converted energy is recovered and utilized;

6. The sanitary landfill gases, prior to the design and construction of the gas collection and venting system in accordance with (f)3 and 4 above, shall be sampled and analyzed to define the quality and quantity of the sanitary landfill gases. Air pollution control permits in accordance with N.J.A.C. 7:27 shall be obtained for all gas venting systems. The sampling and analysis of sanitary landfill gases shall be in accordance with the air pollution control permit for the sanitary landfill gas venting system.

7. The gas collection system shall be designed to control condensate and to drain the condensate into the leachate collection system;

8. Each collection well shall be constructed with a valve to enable control and tuning of the system;

9. The gas collection system within the landfill area shall be designed to compensate for settlement. Collection wells shall be designed with slip joints, telescoping joints or equivalent joints. The valves, condensation traps and manifold connections shall be designed with flexible joints;

10. A gas generation model, approved by the Department, and calculations shall be performed to properly size the number of collection wells required by (f)3iv and 4iii above. The collection well diameters, header lengths, pump capacities and recovery systems shall be properly sized, and designed and constructed in accordance with (f)6 above;

11. The pump station shall be a suitable, permanent structure, which affords protection to the pumps, motors, and electrical equipment, and shall include the following:

i. Explosion-proof equipment for the pumps, motors, and electrical equipment in accordance with the most current version of the National Electrical Code "Special Occupancy, Hazardous Location" Volume 6 of the National Fire Code published by the National Fire Prevention Association; and

ii. Adequate lighting and ventilation which shall be in accordance with the most current version of the National Fire Code's "Explosion Venting" Volume 14 published by the National Fire Prevention Association.

12. Materials used in the gas collection and venting systems shall be compatible with the sanitary landfill environment, sanitary landfill gases and condensate, and the material shall meet ASTM standards for chemically resistant materials;

13. Construction of any buildings on top of landfilled areas shall be prohibited during the operational and closure phases. Construction during the post-closure phase, as approved by the Department, shall be in accordance with the following:

i. The building shall be an above-grade structure. Construction of a basement is prohibited;

ii. The building shall be constructed to prevent gas accumulation within the structure in accordance with the requirements of (f)14 below or an equivalent method, which may include an active gas collection and venting system; and

iii. All utility connections shall be designed and constructed with flexible connections.

14. On-site buildings within the sanitary landfill properties should be designed and constructed in accordance with the following, or in accordance with an equivalent design which will prevent gas migration into the building:

i. A geomembrane or equivalent system with high gas impermeability should be installed between the slab and the subgrade or equivalent design;

ii. A permeable layer of open-graded material of clean aggregate, with a minimum thickness of 12 inches, should be installed between the membrane and the subgrade or slab. The material should be in accordance with the following requirements of the grain size distribution curves:

(1) $D_{85} < 4D_{15}$; and

(2) $D_2 > 0.1$ inch;

iii. A geotextile filter should be utilized to prevent the intrusion of fines into the permeable layer;

iv. Perforated venting pipes shall be installed within the permeable blanket and shall be designed to operate without clogging;

v. The venting pipe shall be designed and constructed with the ability to be connected to an induced draft exhaust system;

vi. Automatic methane gas sensors shall be installed within the venting pipe/permeable blanket and inside the building to trigger an audible alarm when methane gas concentrations are detected; and

vii. All buildings shall be constructed in accordance with the National Fire Code's, Life Safety Code Volume 9 as published by the National Fire Prevention Association.

(g) The following are the design standards and construction requirements for surface drainage systems:

1. Sanitary landfills shall be designed and constructed in such a manner as to hydraulically isolate the sanitary landfill from surface water drainage in a controlled manner. The surface drainage system shall be designed and constructed to protect the sanitary landfill from run-on and control run-off, from, at a minimum, the peak discharge of a 24-hour, 25-year storm;

2. Run-on/run-off structures shall be designed utilizing the United States Department of Agriculture, Soil Conservation Service, methods and in accordance with the Standards for Soil Erosion and Sedimentation Control, N.J.A.C. 2:90;

3. Diversion structures shall be designed to minimize ponding behind the structure;

4. Laboratory classification, and compaction or relative density tests shall be performed on the soils to be utilized in the construction of the run-on/run-off structures in accordance with current ASTM, AASHTO or

equivalent methods. The number of tests and samples shall be sufficient to define the material;

5. The run-on/run-off structures shall be constructed by modification of the compactive effort utilizing stage compaction, not exceeding the effective depth of the compaction equipment. The compaction shall be performed to the design density and at the proper moisture content where applicable, based on the laboratory analysis performed pursuant to (g)4 above, to achieve the required strength or hydraulic conductivity;

6. The following quality control tests shall be performed on the soils utilized within the run-on/run-off structure construction:

i. Grain size analysis; and

ii. Relative density/compaction.

7. The tests required by (g)6 above shall be performed in accordance with ASTM, AASHTO or equivalent methods in accordance with the following:

i. Grain size analysis shall be performed once per every 3000 cubic yards of in-place fill material; and

ii. Relative density or compaction testing shall be performed on the completed structures at 50 foot intervals on a grid pattern across the surface;

8. The strength of the run-on/run-off structures shall be determined utilizing appropriate ASTM, AASHTO or equivalent methods for both in-situ and laboratory testing for the appropriate conditions. The stability of the structure shall be determined for long term, short term, or rapid drawdown conditions by modeling techniques and the factor of safety shall be within the minimum values set forth in Table II in N.J.A.C. 7:26-2A.7(b)3i;

9. Run-on controls shall meet the following requirements:

i. Diversion structures shall be designed to minimize run-on onto the landfilled areas in accordance with (g)1 above and N.J.A.C. 7:26-2A.6(g) and (h);

ii. Detention basins used for run-on control, shall be designed to provide temporary storage of the expected run-off from the design storm with sufficient reserve capacity to contain accumulated precipitation and sediment in accordance with the Standards for Soil Erosion and Sediment Control, N.J.A.C. 2:90;

10. Run-off controls shall meet the following requirements:

i. Discharge of run-off from diversion structures installed on stabilized slopes with intermediate cover and graded in accordance with N.J.A.C. 7:26-2A.82(b)11 shall comply with the NJPDES regulations, N.J.A.C. 7:14A where applicable; and

ii. Discharge of run-off from the active face shall be directed to the leachate collection system. Run-off

from the final capped areas may be directed to the detention ponds.

(h) The following are the design and construction requirements and standards for monitoring systems:

1. The monitoring system shall be designed and constructed in such a manner as to ensure its ability to observe and record the performance of the sanitary landfill and its various environmental control systems and to detect any potential malfunctions and possible pollutant migration;

2. The Department may require any or all of the following components for the landfill monitoring system designed and constructed pursuant to (h)1 above: groundwater monitoring system, hydrostatic pressure gradient monitoring system, gas monitoring system, leachate monitoring system, meteorological monitoring system and slope and settlement monitoring system;

3. All monitoring systems, where appropriate, shall be constructed and operated in accordance with the NJPDES regulations, N.J.A.C. 7:14A;

4. A ground water monitoring system shall be designed and constructed in accordance with the NJPDES regulations, N.J.A.C. 7:14A;

5. A hydrostatic pressure gradient monitoring system shall be designed and constructed in accordance with the following:

i. In facilities with cut-off wall designs, a system to measure the hydrostatic pressure across the wall shall be constructed in accordance with the following:

(1) The location of the piezometers shall be directly opposite the groundwater saturated zone wells; and

(2) The depth and location of the piezometers within the sanitary landfill shall not result in damage to the containment system.

6. A gas monitoring system shall be designed and constructed in accordance, with the following:

i. The system shall be capable of detecting any possible methane gas migration from the sanitary landfill and shall be located as close to the toe of the slope of the sanitary landfill, depending on the gas flow characteristics of the soils, as is reasonably possible, in order to rapidly detect any possible gas migration;

ii. The methane gas monitoring wells shall be screened in the unsaturated zone to at least five feet below the lowest elevation of the landfill or to the top of the water table;

iii. A periodic gas survey performed in accordance with N.J.A.C. 7:26-2A.10(a)5ix may be substituted for the design and construction of methane gas monitoring wells; and

iv. In accordance with the Permits and Certificates Rules of the Department, N.J.A.C. 7:27-8, a gas monitoring system for the gas collection systems, capable of defining the quality and quantity of the landfill gas, shall be designed and constructed.

7. A leachate monitoring system shall be designed and constructed which shall be capable of measuring the flow, and capable of sampling leaching influent and the treatment system effluent;

8. A meteorological monitoring system shall be installed within the landfill properties to measure and continuously record the daily precipitation onto the sanitary landfill, unless such data from a nearby meteorological station are available; and

9. A slope and settlement monitoring system shall be designed and constructed in accordance with the following:

i. In areas which exhibit a high degree of uncertainty of the strength data, such as meadow mat, peat, or expansive clay soils, a system to measure the settlement of the sanitary landfill and liner systems shall be installed which should include, but not be limited to, borehole settlement devices; and

ii. Sanitary landfills, when required by the Department, based on the final elevation and grades of the capping system and the foundation analysis, shall install slope inclinometers to adequately measure the slope stability and integrity.

(i) The following are the design standards and construction requirements for a final cover system:

1. The final cover system shall be designed and constructed to minimize long term infiltration and percolation of liquid into the sanitary landfill throughout the closure and post-closure periods;

2. A Class II or Class III sanitary landfill, as approved by the Department, may design and construct a final cover with a minimum of two feet of final cover, provided the performance standards of (i)1 above and N.J.A.C. 7:26-2A.6(i) are met.

3. The final cover system, in conjunction with the containment system required pursuant to (c) above, shall completely isolate the landfilled solid waste from the surrounding environment. In accordance with 40 C.F.R. Parts 257 and 258, and the Department's Technical Manual for the Division of Solid and Hazardous Waste, Bureau of Landfill, Compost and Recycling Management, Landfill Permits, a final cover system shall comply with the following performance standards:

i. The permeability of the final cover shall be less than or equal to that of the bottom liner system or natural subsoils present, or 1×10^{-5} cm/sec., whichever is less. The depth of final cover shall be a minimum of 18 inches overlain by a minimum of a six inch erosion layer.

ii. If the sanitary landfill has a synthetic membrane in the bottom liner system, then the final cover shall include a synthetic membrane.

(1) The synthetic membrane of the final cover does not have to be the same type or thickness as the membrane in the bottom liner system. However, a minimum thickness of 30 mils shall be used. In the case of High Density Polyethylene, a minimum thickness of 60 mils is required to ensure proper seaming of the synthetic membrane.

4. The long term stability of the final slopes shall be determined by modeling techniques in conjunction with the information gathered pursuant to (b)3 above and N.J.A.C. 7:26-2A.5(a)6, and the factor of safety shall be within the minimum values set forth at (b)3i and ii above;

5. The grades of the final slope shall be constructed in accordance with the following minimum standards:

i. The top slope final grades, after allowing for settlement and subsidence, shall be, at a minimum, three percent;

ii. The top slope final grades shall be, at a maximum, five percent, except as set forth at (i)5ii(1) below:

(1) Steeper top slopes which will promote drainage and not subject the closed sanitary landfill to excessive erosion shall be permitted provided the maximum erosion rate does not exceed two tons per acre as determined by the United States Department of Agriculture, Universal Soil Loss Equation; and

iii. The side slopes of the final grades shall be no steeper than three horizontal to one vertical (3:1).

6. The final grades of the final cover system shall have a surface drainage system, designed and constructed in accordance with the requirements of (g) above, capable of conducting run-off across the final grades without the development of erosion rills or gullies;

7. The construction of the final cover system shall accommodate initial settlement so that the integrity of the impermeable liner is maintained throughout the closure and post-closure period. A temporary cover may be constructed, provided the leachate collection system is operating properly in accordance with the following:

i. The temporary cover shall be capable of minimizing infiltration into the sanitary landfill unless the sanitary landfill is designed and operated to allow for leachate recirculation in accordance with (e)3 above;

ii. The depth of the temporary cover shall be a minimum of 12 compacted inches and shall be maintained to prevent erosion and exposure of solid waste; and

iii. The temporary cover shall be exposed for no greater than six months unless otherwise approved by the Department;

8. The grading and stabilizing of the final lifts of solid waste shall result in a relatively planar surface and provide a sufficiently firm base for the placement and construction of the impermeable cap.

9. The final lifts of solid waste shall be physically or chemically stabilized in accordance with the following:

i. The density of the final lift shall be increased to the largest extent practicable by:

(1) Reducing the thickness of the layers as compacted;

(2) Increasing the ballast or load of the compaction equipment; and

(3) Increasing the number of passes of the compaction equipment.

ii. Blending of gravel, stone, cobble, or selected demolition material (for example, brick, concrete, asphalt) into the upper 12 to 24 inches of the final lift of the solid waste; or

iii. Chemically stabilizing the upper 12 inches of the final lift of solid waste with the addition of soil cement or lime treated soil with silicates, kiln dust or other proprietary polymeric additives or soil asphalt. Ash-lime treated soil or ash-cement treated soil may be used, provided the ash-lime or ash-cement treated soil has received a beneficial use or reuse authorization pursuant to N.J.A.C. 7:26-1.7(g).

10. The impermeable cap shall be designed and constructed in accordance with the following:

i. The cap shall, at a minimum, be as impermeable as the most impermeable component of the containment system;

ii. The minimum thickness for a clay impermeable cap shall be 12 inches;

iii. The minimum thickness for a geomembrane impermeable cap shall be 30 mils, or for High Density Polyethylene, 60 mils;

iv. The impermeable cap shall be constructed and tested in accordance with (c) above, except that (c)2vii, viii and ix above shall not apply;

v. Geomembranes utilized as an impermeable cap shall be designed and constructed to withstand the calculated tensile forces acting on the geosynthetic materials. The design shall consider the maximum friction angle of the geomembrane with regard to any interface and shall ensure that the overall slope stability and erosion control of the final cover system are maintained;

vi. The geomembrane shall be protected from below and above by a minimum thickness of six inches of bedding and cover which is no coarser than a poorly grade sand (SP), as determined in the Unified Soil

Classification System (USCS), and which is free of rocks, fractured stones, debris, cobbles and solid waste. An equivalent geotextile may be utilized as approved by the Department; and

vii. The impermeable cap shall be located wholly below the average depth of frost penetration in the area as determined by United States Department of Agriculture and mapping.

11. A drainage layer shall be designed and constructed in accordance with the following:

i. The design testing of materials and the quality control testing of the drainage layer of the capping system shall be performed in accordance with (d)2ii, vii and viii above;

ii. The material used in the drainage layer shall be an open graded material of clean aggregate. The material shall be in accordance with the following criteria of the cumulative grain size distribution curves:

(1) $D_{85} < 4D_{15}$; and

(2) $D_2 < 0.1$ inch;

iii. The drainage layer shall be designed and constructed so that the discharge flows freely in the lateral direction to minimize the hydrostatic head on the impermeable cap, flows through the drainage layer, and provides a path for infiltrated liquids to exit the capping system;

iv. The drainage layer shall have a thickness and hydraulic conductivity capable of transmitting the estimated percolation, based on modeling of the system. The latest version of the Hydrologic Evaluation of Landfill Performance (HELP) Model (EPA/600/9-94/xxx, U.S. Environmental Protection Agency Risk Reduction Engineering Laboratory, Cincinnati, OH) shall be used to facilitate rapid estimations of surface runoff, subsurface drainage and leachate generation quantities. The drainage layer shall be constructed, at a minimum, in accordance with the following:

(1) When located above a clay impermeable cap, the drainage layer shall be, at a minimum, six inches thick; and

(2) When located above a geomembrane impermeable cap, the drainage layer shall be, at a minimum, 12 inches thick.

v. Drainage pipes and/or geonets, where necessary to control the hydrostatic head on the impermeable cap, should be located within the drainage layers in accordance with the following:

(1) The drainage pipe should be installed at a distance sufficient to ensure that the hydrostatic head on the impermeable layer does not exceed the thickness of the drainage layer during a 25 year, 24 hour storm; and

(2) A coarse gravel envelope, within a geotextile fabric, shall be installed in accordance with N.J.A.C. 7:26-2A.5(e)3ix around the drainage pipe to minimize the movement of soil particles in the drainage pipe.

vi. A soil filter or geotextile should be designed and constructed above the open graded aggregate in order to minimize the intrusion of fines into the drainage layer.

12. The vegetative layer shall be designed and constructed in accordance with the following:

i. The vegetative layer shall be thick enough to contain the effective root depth or irrigation depth for the type of vegetation planted;

ii. Fertilizer, mulch, and seeding applications shall be performed in accordance with Standards for Soil Erosion and Sedimentation Control, N.J.A.C. 2:90, for permanent vegetative cover for soil stabilization;

iii. The minimum thickness of uncompacted topsoil in the upper layer of the vegetative layer shall be five inches. The topsoil shall meet the Topsoil Standard specified in Section 909.10 of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction; and

iv. The application of sludge or the use of Sludge Derived Product (SDP) to the final grades of the vegetative layer shall be performed in accordance with the NJPDES rules, N.J.A.C. 7:14A.

13. A gas venting layer shall be designed and constructed in accordance with the following:

i. The gas venting layer shall be located directly below the impermeable layer and above the compacted waste layer.

ii. The gas venting layer shall be designed and constructed in accordance with the requirements set forth at (f) above.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended section.

7:26-2A.8 Sanitary landfill operational and maintenance requirements

(a) All sanitary landfills shall be operated in accordance with the requirements set forth in N.J.A.C. 7:26-2.8, and the following additional operational, maintenance, inspection and monitoring requirements.

(b) The sanitary landfill shall be operated in accordance with the following additional minimum requirements:

1. The working face shall be confined to the smallest practical area, as is consistent with the proper operation of trucks and equipment, in order that the area of waste material exposed during the operating day is minimized. The width of the working face shall be in accordance with the following:

i. Sanitary landfills receiving 400 or less truck loads of waste per day, shall have a working face no greater than 150 feet;

ii. Sanitary landfills receiving more than 400 truck loads of waste per day may submit a request for a working face greater than 150 feet or another 150 foot working face in a separate location. The size and number of the working faces approved by the Department will be based on the sanitary landfill equipment and cover material available on-site and the on-site traffic flow patterns.

2. All waste shall be thoroughly compacted throughout the operational day to yield the smallest practical volume;

3. Solid waste shall be compacted in shallow layers. The layers should be less than two feet in thickness and should be compacted with a minimum of four passes of the compaction equipment, except over leachate collection pipes where compacting shall be performed in accordance with N.J.A.C. 7:26-2A.7(d)3xiv;

4. The lift height of the daily cell, as measured vertically from the previous day's cover surface, shall not exceed 12 feet;

5. The slope of the working face shall be maintained so as to maximize compaction of the solid waste and minimize infiltration into the solid waste. The slope shall be no steeper than three horizontal to one vertical (3:1). For balefill operations, a vertical working face will be allowed at the disposal area where continued bale placement will take place within 24 hours.

6. Separate areas designated on the site plan, as approved by the Department, may be used for the storage of demolition waste or recyclable materials in accordance with the following:

i. The stockpiled solid waste or recyclable materials shall not contain putrescible material;

ii. The stockpiled solid waste or recyclable materials shall not cause or result in a public health or environmental nuisance or impose a safety hazard as determined by the Department; and

iii. A schedule or time frame for reuse of the material in a timely fashion, shall be submitted to and approved by the Department.

7. All exposed surfaces of solid waste shall be covered at the close of each operating day with daily cover, unless the solid waste meets the following:

i. The uncovered solid waste will not create an environmental or public health nuisance as determined by the Department;

ii. The uncovered solid waste will not create a safety hazard as determined by the Department;

iii. The solid waste is a clean fill; and

iv. The solid waste is an inert material.

8. The daily covering of solid waste shall be a progressive operation so that no greater than 15,000 square feet of solid waste is exposed at any time throughout the operating day for each 150 feet of working face;

9. Intermediate cover, a minimum of 12 inches of cover material, shall be applied to all surfaces to be exposed for any period exceeding 24 hours.

10. The grade and thickness of the intermediate and final cover material on all surfaces shall be maintained until stabilized. All cracks, erosion swales, rills and uneven areas shall be maintained to prevent extrusion of solid waste and to minimize infiltration and ponded water;

11. All areas with intermediate cover shall be graded so as to facilitate drainage of run-off to the surface drainage system and minimize infiltration and ponded water;

12. Heavy clays and very fine grain materials, such as fly ash, shall not be used as daily and intermediate cover. The daily and intermediate cover material should be of a quality that is manageable under all weather conditions. A sufficient quantity of cover material shall be at the site to adequately meet the requirements of (b)7 through 10 above. For landfills without on-site supplies of cover material, a standby supply for cover material equal to 25 percent of the volume of waste received and compacted at the landfill in 10 normal disposal days shall be stored within the boundaries of the landfill property;

13. Final cover constructed in accordance with N.J.A.C. 7:26-2A.7(i) shall be applied to all surfaces where the final approved elevation has been reached and to all surfaces when the landfill operation is terminated;

14. An alternate material other than clean soil shall be approved by the Department for use as daily, intermediate or final cover material at a sanitary landfill provided the following criteria are met:

i. The alternate material impedes the entry of rodents and vectors into the waste fill;

ii. The alternate material controls malodorous emissions;

iii. The alternate material provides a firebreak;

iv. The alternate material resists or has limited erosion potential and is not easily windblown; and

v. The alternate material controls windblown litter.

15. Materials, other than clean fill, intended for use as cover shall be required to receive approval as a beneficial use or reuse authorization pursuant to N.J.A.C. 7:26-1.7(g).

16. Materials intended for use in the topsoil layer in a final cover shall be tested for nutrient content, including nitrogen, ammonia-n, nitrate-n, total kjeldahl nitrogen, phosphorus, calcium, magnesium and potassium.

17. For soil-like or admixture alternative cover materials, the following laboratory testing for physical properties of the material shall be required depending on the material and its intended use:

i. For final or temporary final cover, the following tests shall be required:

- (1) Atterburg limits;
- (2) Permeability testing;
- (3) Solids content;
- (4) Percent volatile solids;
- (5) Grain size analyses; and
- (6) Moisture content.

ii. For intermediate or daily cover, the following tests shall be required:

- (1) Solids content;
- (2) Percent volatile solids;
- (3) Grain size analyses; and
- (4) Moisture content.

18. The alternate cover material shall meet the following performance standards:

i. The volatile solids, or combustible, content of the cover shall not exceed 12 percent by weight;

ii. No more than 20 percent of fine grained materials shall pass a No. 200 sieve;

iii. At least 40 percent by weight of the fragments in the soil admixture shall be capable of passing through a No. 10 mesh sieve; and

iv. Particle sizes shall not exceed six inches in diameter.

19. An evaluation program in accordance with the requirements for RD&D projects as set forth at N.J.A.C. 7:26-1.7(f) shall be conducted for non-traditional cover materials such as cover foams and geotextiles. The evaluation program shall evaluate the cover material in actual use at the landfill.

i. The owner and/or operator of a sanitary landfill with an RD&D authorization for non-traditional cover materials shall evaluate the effectiveness of the material in meeting the requirements by monitoring its use under varying operational and weather conditions.

20. There shall be sufficient types of quantities of equipment for digging, spreading, compacting or covering waste or applying cover material to adequately meet the requirements of (b)7 through 10 above, to ensure a smooth flow of traffic at the working face and to achieve the maximum compaction efficiencies;

21. At sanitary landfills that accept an annual waste flow of greater than 1,000,000 in-truck cubic yards (300,000 tons), the compaction equipment should include the use of steel wheel type compactors with a minimum operational weight of 45,000 pounds;

22. Sanitary landfill equipment shall be equipped with hand-portable fire extinguishers of a multipurpose dry chemical type, an automatic fire suppression system, and rollover protection structures and any other safety equipment required by the Occupational Health and Safety Administration standards;

23. In case of breakdown of the equipment required by (b)14 above, the permittee shall repair the equipment or obtain replacement equipment within 24 hours after breakdown. Unless sufficient types and quantities of replacement equipment meeting the requirements of 14 above are available on-site, written maintenance contracts with a local equipment dealer shall be in force at all times. A copy of the contract shall be submitted with the O and M plan to verify compliance with this requirement;

24. Access to the sanitary landfill for solid waste disposal shall be permitted only during the operating hours set by the Division of Solid and Hazardous Waste Management and shall be restricted to 7:00 A.M. to 7 P.M. in areas within 1000 feet of a residential zone;

25. The sanitary landfill shall be adequately secured with a six-foot high chain link fence with an entrance gate, posted with the operating hours, that can be locked to prevent unauthorized entry into the facility. Fencing may be exempted, as approved by the Department, in areas where topographic features restrict vehicular access to the sanitary landfill;

26. A scale house and scales meeting the requirements of N.J.S.A. 13:1E-117 and the guidelines promulgated pursuant thereto, shall be constructed at the sanitary landfill. The location of the scale house and scales shall be situated so as to minimize the queuing-up of trucks onto the public roadway and so as to maintain a smooth and safe flow of traffic to and from the working face and while entering and exiting the landfill;

27. An all weather road shall be provided to the working face;

28. Litter shall be controlled through the use of moveable fences of sufficient height or by an equivalent means. The litter fence shall be policed daily and the litter collected shall be properly disposed of at the working face;

29. Dust control shall be effected by the spraying of water or the spreading of calcium chloride or an equivalent approved by the Department, as needed. Spraying of waste oil is prohibited;

30. The sanitary landfill shall not cause any air contaminant, including an air contaminant detectable by the sense of smell, to be present in the outdoor atmosphere in such quantity and duration which is, or tends to be, injurious to human health or welfare, animal or plant life or property, except for malodorous emissions emanating from the sanitary landfill which result in odors in areas over which the owner and/or operator has exclusive use or occupancy. Malodorous emissions emanating from the sanitary landfill shall not result in odors being detectable in an area of human use or occupancy beyond the property boundary line. Malodorous emissions shall be controlled by the use of daily cover. In the event that this is not satisfactory, a suitable deodorant shall be used. Malodorous solid waste shall be covered immediately after unloading with a minimum of six inches of cover material or approved alternative material;

31. Mud, soil, and other materials shall not be tracked onto any public road by exiting vehicles. A rumble rack or wheel washing station may be used to control the off site tracking of mud, soil, and other material;

32. The sanitary landfill shall be operated in a manner which minimizes the propagation and harborage of insects, rodents, and birds;

33. The sanitary landfill shall be operated in a manner which will protect all monitoring devices and environmental systems from damage. Any damage shall be immediately reported to the Division of Enforcement Field Operations at (609) 584-4180;

34. Any monitoring device or environmental control system which is damaged so as to impair the proper operation of the monitoring device or environmental control system shall be reconstructed in accordance with the following:

i. The operator shall repair the monitoring device or environmental system in accordance with the plans and schedule approved by the Department; and

ii. The Department may require immediate remedial action for repair of the damaged monitoring device or environmental control system should such damage endanger human health or the environment.

35. The sanitary landfill shall be operated in a manner which will facilitate the filling of each section to final grade and which will minimize the operational phase of each section;

36. An adequate number of qualified personnel shall be at the sanitary landfill to maintain the smooth flow of traffic at the sanitary landfill and to operate the sanitary landfill in a manner that is in compliance with the requirements of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., this chapter, and the conditions of the SWF permit;

37. A supervisor shall be at the sanitary landfill during all operating hours to ensure proper operation of the sanitary landfill, to evaluate the monitoring data and inspection reports, to determine the performance of the sanitary landfill and to direct and implement all operational decisions to ensure the facility's compliance with the requirements of the Solid Waste Management Act, N.J.S.A. 13:1 E-1 et seq., this chapter, and the conditions of the SWF permit;

38. All sanitary landfill personnel who are involved in waste management activities or who operate, service or monitor any facility equipment, machinery or system, shall complete a program of on-the-job training which shall include, at a minimum, the following:

i. The training program shall be directed by a person thoroughly familiar with the technology being utilized at the facility and the conditions of the SWF permit;

ii. The training shall include instruction in the operation and maintenance of the equipment, machinery and systems which facility personnel must operate, service or monitor in the course of their daily job duties. The training shall instruct facility personnel in the performance of their duties in a manner that ensures the facility's compliance with the requirements of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., this chapter, and the conditions of the SWF permit;

iii. The training program shall ensure that the facility personnel are able to effectively respond to any equipment malfunction or emergency situation that may arise;

iv. The training program shall provide instruction in the use of safety and emergency equipment and the use of communication or alarm systems; and

v. The training program shall provide instruction in the procedures for emergency response for sanitary landfill fires or explosions, gas leaks, leachate treatment system failure or leaks, detention basin breaches or other emergencies and shall include procedures to shut down operations.

39. The sanitary landfill facility personnel shall complete the initial training program required by (b)32 above within six months after the effective date of this subchapter or six months after the date of their employment, whichever is later;

40. The sanitary landfill facility personnel shall take part in an annual update of the initial training program;

41. Training records that document the type and amount of training received by current facility personnel shall be kept until closure of the sanitary landfill;

42. The following actions shall be implemented in the case of an emergency:

i. The supervisor or emergency coordinator shall immediately identify the character, exact source, amount and extent of any discharged materials and notify appropriate State or local agencies with designated response roles if their help is needed;

ii. Concurrently, the supervisor or emergency coordinator shall assess possible hazards to public health or the environment that may result from the discharge, fire or explosion. This assessment shall consider both direct and indirect effects;

iii. If the supervisor or emergency coordinator determines that the facility has had an uncontrolled discharge, a discharge above standard levels permitted by the Department, or a fire or explosion, he or she shall:

(1) Immediately notify appropriate local authorities if the assessment indicates that evacuation of local areas may be advisable;

(2) Immediately notify the Department at (609) 292-7172; and

(3) When notifying the Department, report the type of substance and the estimated quantity discharged, if known, the location of the discharge, actions the person reporting the discharge is currently taking or proposing to take in order to mitigate the discharge and any other information concerning the incident which the Department may request at the time of notification.

iv. The supervisor shall take all reasonable measures to ensure that fires, explosions and discharges do not recur or spread to other areas of the facility. These measures shall include, where applicable, the cessation of operations and the collection and containment of released waste;

v. Immediately after an emergency, the supervisor or emergency coordinator shall provide for treating, storing or disposing of waste, contaminated soil or water or any other material contaminated as a result of the discharge, fire or explosion;

vi. The supervisor or emergency coordinator shall ensure that no waste is processed until cleanup procedures are completed and all emergency equipment listed in the contingency plan is again fit for its intended use;

vii. The supervisor or emergency coordinator shall notify the Department and appropriate local authorities when operations in the affected area of the facility have returned to normal; and

viii. Within 15 days after the incident, the supervisor or emergency coordinator shall submit a written report on the incident to the Department. The report shall include, but not be limited to:

(1) The name, address and telephone number of the facility;

(2) The date, time and description of the incident;

(3) The extent of injuries, if applicable, with names and responsibilities indicated;

(4) An assessment of actual damage to the environment, if applicable;

(5) An assessment of the scope and magnitude of the incident;

(6) A description of the immediate actions that have been initiated to clean up the affected area and prevent a recurrence of a similar incident; and

(7) An implementation schedule for undertaking longer term measures to effect cleanup and avoid recurrence of the incident, if applicable.

43. An on-site baseline consisting of two vertical and horizontal control monuments shall be constructed and installed in accordance with the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., and the Department's specifications in the "Guidelines for Establishing Vertical and Horizontal Control Monuments on Sanitary Landfills" available from the Division of Waste Management, Office of Engineering.

44. The control monuments shall be installed with, at a minimum, Second Order accuracy in accordance with the "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Survey", published by the U.S. Department of Commerce, 1980;

45. The control monuments shall be tied into the national or state geodetic survey network and keyed into the New Jersey Plane Coordinate Datum, 1927; and

46. Sanitary landfills equal to or greater than 50 acres in size may be required to construct and install secondary control points. The control points shall be installed in accordance with the Department's "Guidelines for Establishing Vertical and Horizontal Control Monuments on Sanitary Landfills."

(c) While the sanitary landfill is in operation all environmental control systems shall be maintained in a proper functioning manner and shall be inspected to ensure compliance with the operational and construction requirements and the design and performance standards.

(d) The inspections, required by (c) above, shall be performed, unless otherwise stated, on a weekly basis and after storm events to detect evidence of deterioration, malfunction or improper operation.

(e) The owner and/or operator shall record the results of the inspections in a log book or by means of an electronic records storage system approved by the Department which shall be maintained at the sanitary landfill office and be accessible, at all times, for inspection by the Department. These records shall include the date and time of the inspection, the name of the inspector, a notation of observations and recommendations and the date and nature of any repairs or other remedial action.

(f) If deterioration which would result in failure, malfunction or improper operation is evident during inspection, the operator shall make repairs in accordance with N.J.A.C. 7:26-2A.8(b)28 and as listed in the approved final O and M manual.

(g) The sanitary landfill shall be maintained and inspected by the owner and/or operator in accordance with the following additional minimum requirements:

1. The buffer zone shall be maintained free from litter. The entire area shall be policed on a daily basis, weather permitting, and the collected litter shall be properly disposed of at the working face;

2. The all weather road shall be maintained as necessary to provide access to the working face;

3. The public roads providing access to the sanitary landfill shall be maintained free of mud, dirt, and litter. The entrance shall be properly policed on a daily basis, weather permitting;

4. The vertical and horizontal control monuments shall be maintained and resurveyed by a licensed New Jersey Land Surveyor and certified for accuracy biennially. The survey shall be, at a minimum, second order accuracy in accordance with the "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Survey" published by the U.S. Department of Commerce 1980. The control monuments shall be tied into the national or state geodetic survey network;

5. All emergency equipment shall be maintained in a proper functioning manner. The equipment shall be tested on an annual basis;

6. The cap on the cut-off wall, required by N.J.A.C. 7:26-2A.7(c)10xvi., shall be maintained at a three foot thickness to prevent the erosion of the cut-off wall;

7. The leachate collection pipes shall be maintained to ensure a free flow of leachate. The leachate collection pipes shall be inspected and if blockage and clogging of the system is evident the collection pipes shall be cleared by water jet flushing or an equivalent method. The mains shall be tested annually to ensure a free flow of leachate;

8. The structural integrity of the manholes or clean-out risers shall be maintained to ensure a free flow of leachate;

9. The structural integrity of the sumps shall be maintained to ensure water tightness of the sump;

10. The structural integrity of the leachate pump station and gas pump station, and the electrical, venting and

alarm systems of the leachate pump station and the gas pump station shall be maintained to ensure a free flow of leachate and gas;

11. The leachate pumping system and gas pumping system shall be maintained as necessary. They shall be completely overhauled, at a minimum, on a biennial basis and shall be inspected on a daily basis to ensure a free flow of leachate or gas;

12. The leachate treatment and disposal systems shall be inspected on a daily basis and maintained in a manner which will prevent anaerobic and malodorous conditions from developing;

13. The structural integrity of the storage tanks shall be maintained to ensure containment of leachate. The tanks shall be inspected annually for leaks;

14. The structural integrity and erosion protection shall be maintained on all areas of the surface impoundments to ensure stability of the dike and emergency spillways and containment of the leachate and run-off. The surface impoundment shall be inspected on a daily basis to ensure that the minimum depth of freeboard is maintained;

15. The leachate treatment and disposal system units, storage tanks, surface impoundments, and detention/retention ponds shall be dredged, as necessary, to maintain the design capacity. Dredging shall not result in or cause damage to the containment system;

16. The structural integrity of the vents, manifolds and piping of the gas venting system shall be maintained to insure a free flow of gas;

17. The structural integrity of the gas flaring or recovery/combustion systems shall be inspected on a daily basis and shall be maintained to ensure proper disposal or use of the collected gas;

18. The structural integrity of all monitoring devices shall be maintained to ensure their workability and reliability; and

19. The structural integrity and erosion protection of the surface run-on/run-off structures shall be maintained on all areas of the capping system to ensure the stability of the slope and prevent excess erosion. The top grades shall be maintained at their proper slopes to minimize ponding.

(h) Monitoring shall be performed in accordance with the following parameters and schedules:

1. Sampling and analysis of water from the groundwater monitoring wells and lysimeters shall be performed in accordance with the NJPDES regulations, N.J.A.C. 7:14A;

2. Sampling and analysis of surface water taken from the surface water monitoring locations shall be performed in accordance with N.J.A.C. 7:14A;

3. Leachate monitoring of the influent and effluent of the treatment and disposal system shall be performed in accordance with the appropriate section of the NJPDES regulations at N.J.A.C. 7:14A;

4. In addition to the requirement of (h)3 above, the flow of leachate in the primary and secondary leachate collection and detection systems shall be recorded on a daily basis;

5. The daily leachate monitoring results shall be compiled on a quarterly basis and submitted to the Division.

6. Residuals from the treatment and disposal systems shall be sampled and analyzed in accordance with the requirements of the Sludge Quality Assurance Regulations, N.J.A.C. 7:14-4;

7. Residuals from the treatment and disposal systems shall be sampled prior to the planned disposal and the results of the analysis shall be submitted to the Bureau of Technical Assistance for class identification 30 days prior to disposal;

8. The hydrostatic pressure of the cut-off wall and the liner system shall be monitored on a monthly basis, unless otherwise directed by the Department, and the results shall be submitted to the Division;

9. Sanitary landfill gases shall be sampled and analyzed in accordance with the following:

i. A gas quality analysis shall be performed on the gas venting and collection systems as constructed in accordance with N.J.A.C. 7:26-2A.7(g)3 and 4 on an as-needed basis as determined by the Division and the Bureau of Air Quality Engineering, pursuant to N.J.A.C. 7:27;

ii. A methane gas survey shall be performed on a quarterly basis and the results shall be submitted to the Division. If gas is detected within the buffer zone the Department may require more detailed and frequent surveys to be performed.

iii. The methane gas survey shall be performed with a hand-held portable explosimeter or equivalent and the minimum sampling depth shall be three feet below the ground surface or above the water table, whichever is higher; and

iv. The sampling for the methane gas survey shall be performed on a quarterly basis around the perimeters of the buffer zone of active landfill areas and annually around the entire perimeter of the buffer zone of the sanitary landfill. The maximum interval between sampling points shall be 300 feet. Sampling shall be performed around the perimeter of all on-site structures. The maximum interval between sampling points for structures shall be 50 feet; however, there shall be at least one sampling point along each side of the structure. If repeated methane gas surveys consistently detect no methane gas around the perimeters of the buffer zone of an active landfill area or at any location around the entire perimeter of the buffer zone of the sanitary landfill, the maximum interval between sampling points shall be increased and/or the sampling frequency shall be decreased, as approved by the Department, based on negative results at a particular location;

10. The daily precipitation data from the meteorologic monitoring system shall be compiled and submitted on a quarterly basis to the Division.

11. The settlement and slope data shall be compiled and submitted on a quarterly basis to the Division.

(i) All sanitary landfills shall submit an annual topographic survey of all areas of the sanitary landfill. The topographic survey shall be made between January 20 and March 31 of each year and submitted on or before May 1 of each year in accordance with the following:

1. The topographic survey shall be prepared in accordance with the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., and shall be depicted at the same scale and contour intervals as the approved engineering site plan design;

2. All vertical and horizontal points all be located utilizing Third Order, Class I for property survey and Third Order, Class II from remaining points in accordance with the "Classification Standards of Accuracy and General Specification of Geodetic Control Survey" published by the U.S. Department of Commerce, 1980. Contour elevations and vertical and horizontal locations shall be based on the National Geodetic Vertical Coordinate Datum (Mean Sea Level Datum) and keyed into the New Jersey Plane Coordinate Datum, 1983;

3. The topographic survey shall delineate, at a minimum the following:

i. The vertical and horizontal control monuments and secondary control points installed in accordance with N.J.A.C. 7:26-2A.7(a)2 or N.J.A.C. 7:26-2A.8(a)1xxxiii, delineating X (east) and Y (north) coordinates and elevations;

ii. All groundwater monitoring wells and piezometer delineating X (east) and Y (north) coordinates and elevations;

iii. The property lines of the sanitary landfill properties;

iv. The boundary lines of the approved landfill areas;

v. The boundary of areas currently being landfilled and which have been landfilled since the last topographic survey was submitted;

vi. The boundary of the areas which have not been landfilled within the approved landfill area;

vii. The boundary of the areas where final cover has been placed;

viii. The topographic survey shall be prepared by a licensed New Jersey Land Surveyor and the topographic survey report shall be certified by a licensed New Jersey Professional Engineer; and

ix. Information from previous annual topographic surveys may be reproduced in a current annual topographic submission provided that no change to any of (i)3i through vii above has occurred.

4. A report shall be submitted with the topographic survey which shall describe, with sufficient calculations clearly notated, the following:

i. The solid waste disposed of at the landfill since the last topographic survey. This quantity shall be reported in tons for landfills with scales and in cubic yards for landfills exempted from installing scales.

ii. The number of trucks which disposed of waste since the last topographic survey;

iii. The solid waste disposed of at the landfill since commencement of landfilling operations. This quantity shall be reported in cubic yards;

iv. The volume of daily and intermediate cover applied since the last topographic survey. This quantity shall be reported in cubic yards;

v. The volume of final cover applied since the last topographic survey. This quantity shall be reported in cubic yards;

vi. The in-place compaction achieved since the last topographic survey. This quantity shall be reported in pounds per cubic yard; and

vii. The remaining capacity of the landfill excluding final cover volume. This quantity shall be reported in cubic yards.

5. Closed sanitary landfills are exempt from the requirements of this subsection. For the purposes of this exemption, "closed" means the termination of all operations at the landfill and initiation of closure activities pursuant to N.J.A.C. 7:26-2A.9.

(j) Approval of and standards for disruption of landfills shall be in accordance with the following:

1. Written approval for disruptions shall be obtained from the Department prior to any excavation, disruption, relocation or removal of any deposited material, which may or may not involve solid waste, from either an active, terminated, or closed sanitary landfill. Specific guidance for the preparation of an application for disruption approval is provided in the Department's Technical Manual for the Division of Solid and Hazardous Waste, Bureau of Landfill, Compost and Recycling Management, Landfill Permits. For the purposes of this section, disruptions are defined as follows:

i. Minor disruption means the performance of a site investigation at a landfill for the purpose of gathering and evaluating information about the landfill's environmental or physical properties. Minor disruptions include, but are not limited to, the performance of soil

borings and test pits, methane gas surveys, and installation of piezometers and observation wells.

ii. Major disruption means the construction of buildings, roadways, parking areas and other site improvements on top of a landfill.

iii. In cases where the landfill owner and/or operator has submitted documentation and received prior approval from the Department in the form of a revised or renewed solid waste facility permit, closure and post-closure plan approval or other approval for specific construction activities, a separate disruption approval shall not be required.

2. All requests for approval shall include an operational plan stating the area involved, the depth of the excavation with final grades, estimated cubic yards of material to be excavated, the site where excavated material is to be redeposited, and the estimated time required for completion of excavation procedures;

3. All excavation shall be confined to an area consistent with the number of pieces of digging equipment or trucks used for haulage. The area of excavation shall be kept to the smallest practical area;

4. Adequate measures shall be taken during excavation to control dust, odors, fires, rodents, insects, blowing litter, surface water run-on and erosion; and

5. The disposal of all solid waste resulting from the excavation shall be in conformance with the requirements of N.J.A.C. 7:26-2.11.

(k) Control of smoking, smoldering or burning landfills shall be in accordance with the following:

1. In case of a fire on an active sanitary landfill, the responsibility for fire control shall lie with the SWF permit holder. In case of a fire on a terminated, closed or unpermitted landfill, the responsibility for fire control shall lie with the person having the title to the premise upon which the fire is located;

2. The owner or operator of any landfill wherein smoldering, smoking or burning is occurring shall immediately notify the local police and fire department having jurisdiction and the Department hot-line (609) 292-7172;

3. The owner or operator of any active landfill shall be responsible for initiating and continuing fire-fighting actions until all smoldering, smoking and burning ceases;

4. The owner or operator of any landfill shall seek and obtain fire-fighting assistance if smoldering, smoking or burning persists for longer than 24 hours;

5. The owner or operator of any landfill shall not conduct disposal activities within the burning area. Precautions shall be taken to prevent disposal activities from interfering with fire-fighting activities; and

6. Any disruption of the finished grade or covered surface shall be repaired and recovered upon completion of fire-fighting activities.

(l) Rules concerning the disposal of asbestos and asbestos-containing waste materials in sanitary landfills follow:

1. The owner and/or operator of a sanitary landfill shall only accept and dispose of asbestos and asbestos-containing waste materials which have been managed in accordance with N.J.A.C. 7:26-2.12(a).

2. All asbestos and asbestos-containing waste materials accepted for disposal at a sanitary landfill shall be disposed of in the following manner:

i. Owners and/or operators of new landfills accepting asbestos or asbestos-containing waste materials shall meet the following requirements:

(1) The owner and/or operator of the landfill shall develop a separate area of the landfill, apart from other waste disposal areas, for disposal of asbestos and asbestos-containing waste materials. It is recommended that the asbestos disposal area be operated by a trench method, with sufficient width and ramping to allow the transport vehicle to back up to or into the trench to allow for proper unloading of the asbestos and asbestos-containing waste materials in a manner that prevents the rupture of the containers during the unloading operation.

(2) Upon acceptance of the waste, the asbestos disposal area shall immediately be prepared. After unloading, the asbestos and asbestos containing waste materials shall be immediately covered with daily cover. To prevent disturbance of the buried asbestos and asbestos containing waste, truck traffic shall be excluded from the active asbestos disposal area.

(3) In areas in which asbestos and asbestos-containing waste materials has been previously deposited, as required by (l)2i(2) above, the current working face may be prepared by removal of cover material; however, no previously deposited asbestos and asbestos-containing waste materials shall be exposed and a minimum of six inches of cover material shall be maintained between the cells. After unloading, the asbestos and asbestos-containing waste materials shall be immediately covered with a minimum of three feet of daily cover.

(4) The final cover of the asbestos disposal area shall be a minimum of three feet of soil and shall be sufficient to minimize infiltration into the asbestos and asbestos-containing waste materials. The final slopes shall be graded to facilitate run-off away from the asbestos disposal area.

(5) The final cover shall be seeded and maintained to prevent erosion and exposure of the asbestos and asbestos-containing waste materials.

ii. Owners and/or operators of existing landfills shall comply with one of the following two options for disposal of asbestos and asbestos-containing waste materials:

(1) The owner or operator of the landfill may develop a separate area of the landfill for asbestos and asbestos-containing waste disposal, prepared and operated as required by (l)2i above; or

(2) A separate excavation may be prepared in the working face of the landfill. The excavation shall be of sufficient width and depth so as to allow the asbestos and asbestos-containing waste materials to be deposited such that a minimum of three feet of earth or other cover material may be placed between the top of the waste deposited and the top surface of the working face. A written notice must be recorded along with the deed for the landfill property, for all landfilled areas, with the appropriate county recording office, notifying future owners of the property that asbestos has been disposed in the landfill and that disruption or excavation is expressly prohibited under (l)2v below.

iii. The asbestos and asbestos-containing waste materials deposited in the disposal areas described in (l)2i and ii above, shall immediately be covered with three feet of earth or other approved cover material in a manner that prevents the rupture of the containers during the burying operation.

iv. For disposal areas identified in (l)2i and (l)2ii(1) above, a detailed metes-and-bounds description of the asbestos disposal area shall be recorded, along with the deed for the landfill property, with the appropriate county recording office, notifying future owners of the property that disruption or excavation is expressly prohibited pursuant to (l)2v below. This description shall also include the depths of asbestos and asbestos-containing waste materials and cover material and shall remain in the record in perpetuity.

v. For disposal areas identified in (l)2i and ii above, the intermediate and/or final landfill cover may not be disrupted, except as required for pollution control or remedial action, in which case such disruption must be managed in compliance with State regulations and 40 C.F.R. Part 61 governing the removal, disposal or other handling of asbestos or asbestos-containing waste materials.

vi. No person may enter an asbestos disposal area at a landfill during the unloading and covering of asbestos and asbestos-containing waste materials without wearing a respirator approved for asbestos by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration. This equipment shall be provided and maintained in good working order by the landfill owner and/or operator for its employees. Transporters of asbestos and asbestos containing waste materials shall be responsible for providing respirators, any mandatory training and fit testing for its drivers and passengers.

vii. With the approval of the Department, the owner and/or operator of the landfill may establish a secured drop-off and/or transfer area for the acceptance of asbestos and asbestos containing waste materials (ACWM) separate and apart from the disposal areas described in (l)2i and ii above. The owner and/or operator shall ensure that the container used for drop-off and/or transfer is fully enclosed and located on an impermeable surface. No person other than facility personnel or a licensed commercial asbestos removal contractor may load the asbestos or asbestos-containing waste materials into the container used for drop-off and/or transfer.

3. Either there shall be no visible air emissions during or after acceptance and disposal to the outside air from any active waste disposal site where asbestos-containing waste material has been deposited, or the requirements of (l)3i or ii below shall be met.

i. Rather than meet the no visible emission requirement of this paragraph, the owner and/or operator of the sanitary landfill shall ensure that the asbestos or asbestos-containing waste material that has been deposited at the site shall:

(1) Be covered with at least six inches of compacted non-asbestos-containing material; or

(2) Be covered with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion. Such an agent shall be used in the manner and frequency recommended for the particular dust by the dust suppression agent manufacturer to achieve and maintain dust control. Other equally effective dust suppression agents may be used upon prior approval by the Department. For purposes of this paragraph, any used, spent, or other waste oil is not considered a dust suppression agent.

ii. Rather than meet the no visible emission requirement of this paragraph, the owner and/or operator of the sanitary landfill may use an alternative emissions control method that has received prior written approval by the Department.

4. The requirements in this subsection do not apply to asbestos and asbestos containing waste materials generated in a renovation or demolition project wherein the total project involves less than 260 feet of asbestos-coated pipe or less than 160 square feet of asbestos-coated surface, such as ducts, boilers, tanks, structural members and the like.

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

CFR cites updated.

Administrative Correction, effective February 5, 1990: Deleted incorrectly-cited text.

See: 22 N.J.R. 382(b).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended section.

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

Rules and regulations for sound operation and closure of landfills were violated and warranted imposition of civil administrative penalty. *VA Associates v. Department of Environmental Protection and Energy*, 95 N.J.A.R.2d (EPE) 120.

7:26-2A.9 Closure and post-closure care of sanitary landfills

(a) This section shall govern the closure and post-closure care of all sanitary landfills. This section includes requirements for the preparation of a Closure and Post-Closure Plan, as defined in (d)1 below, for all new sanitary landfills and every sanitary landfill operating on or after January 1, 1982. It also establishes requirements concerning establishment and use of both the BPU and the DEP escrow accounts required pursuant to the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., for every sanitary landfill operating on or after January 1, 1982.

(b) The following words and terms, when used in this section shall have the following meanings. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions found in the Department rules, N.J.A.C. 7:26-1.4:

“Accredited financial institution” means any commercial bank, savings bank or savings and loan association with its principal office located in the State of New Jersey, and insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

“Closure” means the construction and implementation of all environmental safeguards required by law or by the sanitary landfill’s approved Closure and Post-Closure Plan and the facility’s approved engineering design subsequent to the termination of operations at any portion of that facility. Closure may include but is not limited to all activities and costs associated with the design, purchase, construction and maintenance of all items in order to prevent, minimize or monitor pollution or health hazards resulting from sanitary landfills subsequent to the termination of operations at any portion thereof, including but not necessarily limited to, the costs of placement of acceptable cover, the installation of methane gas monitoring, venting, or evacuation systems, the installation and monitoring of wells or leachate collection and control systems at the site or in the vicinity of any sanitary landfill.

“Closure period” means, unless otherwise specified, the period beginning after the landfill or a portion thereof has ceased to accept waste or the period as determined by the Department.

“Escrow account” means an interest-bearing account with an accredited financial institution as escrow agent, wherein funds shall be deposited by the owner or operator of every sanitary landfill pursuant to N.J.S.A. 13:1E-100 et seq., and this section. This account shall be based upon the standard escrow agreement provided by the Department for execution by and between the escrow agent and the owner or operator of the sanitary landfill. There shall be only one escrow account for each sanitary landfill, unless otherwise authorized by the Department.

“Liquidity” means that availability of funds for draw-downs consistent with a landfill’s approved closure plan, or, if there is no approved closure plan, consistent with the Department’s closure strategy for the landfill facility.

“Owner or operator” means and includes, in addition to the usual meanings thereof, every owner of record of any interest in land where on a sanitary landfill facility is or has been located, and any person, partnership or corporation which owns a majority interest in any other corporation which is the owner or operator of any sanitary landfill.

“Post-closure care” means those activities necessary to maintain and monitor a sanitary landfill in accordance with an approved engineering design and applicable laws and regulations after the landfill has been properly closed.

(c) General closure and post-closure care requirements are as follows:

1. Every owner or operator of a sanitary landfill shall be jointly and severally liable for the proper operation and closure of the sanitary landfill, as required by law, and for any damages, no matter by whom sustained, proximately resulting from the operations and closure.

2. The owner or operator of a sanitary landfill shall notify the Department in writing of his intention to suspend or terminate operations at that landfill. The Department shall receive notice at least 10 days prior to the date of suspension of operations, which notice shall include the duration of the suspension, and shall receive notice at least 180 days prior to the date of termination of operations.

3. No person shall contract to sell any land which has been utilized as a sanitary landfill facility at any time unless the contract of sale for the land describes such use and the period of time that the land was so utilized, as required in (c)4 below. Upon written request, any prospective purchaser of such land may obtain from the Department a history of the compliance by the landfill with all applicable statutes, rules and regulations administered by the Department.

4. Upon closure of the sanitary landfill, a detailed description of the landfill shall be recorded, along with the deed, with the appropriate county recording office. The description shall include the general types, locations, and depths of wastes on the site, the depth and type of cover material, the dates the landfills were in use and all such other information as may be of interest to potential landowners, and shall remain in the record in perpetuity.

5. The post-closure care period shall continue for 30 years after the date of completing closure of the sanitary landfill or as the following conditions apply:

i. The Department may reduce the post-closure care period to less than 30 years when it has been adequately demonstrated that the reduced period is sufficient to protect human health and the environment;

ii. Prior to the time that the post-closure care period is due to expire, the Department may extend the post-closure care period upon a finding that such extended period is necessary to protect human health and/or the environment; and

iii. Any aggrieved person may petition the Department for an extension or reduction of the post-closure care period, based on good cause.

6. If the Department intends to reduce or extend the post-closure care period to less than or more than 30 years, public notice of that intention shall be provided.

(d) General requirements for a Closure and Post-Closure Plan are as follows:

1. No person shall construct or operate a sanitary landfill without an approval from the Department of a Closure and Post-Closure Plan. Such Plan shall consist of both a Closure and Post-Closure Care Plan and a Closure and Post-Closure Financial Plan in accordance with the provisions of (e) and (f) below, except as otherwise authorized by the Department.

2. The submission for approval by the Department of the Closure and Post-Closure Plan shall be made upon application for new sanitary landfill permit.

3. Existing sanitary landfills in operation after January 1, 1982 shall submit the Closure and Post-Closure Plan for approval by the Department in accordance with the following schedule:

i. Those sanitary landfills which ceased accepting waste during calendar year 1982 or which shall cease accepting waste during calendar year 1983 shall submit a Plan no later than three months from the effective date of this section;

ii. Those sanitary landfills not included in (d)3i above and which accept in excess of 100,000 cubic yards of waste per year, as delivered, shall submit a Plan no later than six months from the effective date of this section; and

26. Where feasible, the facility subsystems shall be equipped with automatic process controls which contain the necessary instrumentation and related feedback mechanisms to ensure that process operational parameters are being met. Automated systems shall be equipped with manual override capabilities. Instrumentation displays and related control mechanisms shall be positioned within the facility in such a manner as to be readily accessible and highly visible for monitoring purposes;

27. The design of the facility shall not place a demand exceeding the remaining use capability of existing physical utilities including, but not limited to, potable and non-potable water supplies, waste water and stormwater collection and treatment, energy supply and transmission, transportation systems, or any other site related infrastructure subsystems, except in those cases where plans have been developed or are being implemented to provide for the expansion of existing utility systems or establishment of new utility systems which will meet the additional demand generated by the construction and operation of the facility. Copies of existing utility expansion plans and implementation time frames shall be submitted in those cases where such expansions are needed to meet the additional demand described above; and

28. All thermal destruction facilities shall be equipped with an independent, auxiliary power system capable of supplying energy in the case of a power supply failure sufficient to complete a controlled facility shutdown.

Amended by R.1989 d.216, effective April 17, 1989.
See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

On-site and off-site hyphenated throughout rule, "vehicles" replaced by "solid waste vehicles" and "hauling" replaced by "transporting".
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended section.

Case Notes

Waste control authority complied with regulatory provision requiring it to identify proposed disposal locations for facility-generated waste residues. Matter of Pennsauken Solid Waste Management Authority, 238 N.J.Super. 233, 569 A.2d 826 (A.D.1990).

Evidence sustained air pollution control permit for resource recovery facility. Matter of Stream Encroachment Permit No. 12400, 231 N.J.Super. 443, 555 A.2d 1123 (A.D.1989).

7:26-2B.5 Additional engineering design submission requirements and design requirements for transfer stations and materials recovery facilities

(a) The requirements of this section are in addition to the requirements of N.J.A.C. 7:26-2.10.

(b) All solid waste transfer stations and materials recovery facilities, except for those regulated pursuant to N.J.A.C. 7:26-2.4(c)2, shall be designed in accordance with the following:

1. Facilities shall be designed with a system capable of collecting, storing, treating and disposing of wastewater

generated during normal operations, including the wash-out and cleaning of equipment, trucks and floors, in compliance with the applicable rules regarding wastewater and stormwater management at N.J.A.C. 7:14A;

2. Facility processing, tipping, sorting, storage and compaction areas shall be located within the confines of an enclosed building.

3. Facilities shall be designed with concrete or equivalent tipping floors or ramps to ensure the proper containment and channeling of wastewater to sanitary sewer connections or corrosion resistant holding tanks and to withstand heavy vehicle usage, in compliance with the applicable rules regarding the discharge of wastewater and the utilization of holding tanks at N.J.A.C. 7:14A and 7:14B;

4. Facilities' on site roadways and storage areas shall be designed with concrete or asphalt paving in those areas subject to vehicle loading and unloading activities;

5. Facilities shall be designed with sufficient internal storage areas for unprocessed incoming solid waste to ensure an environmentally sound operation and for proper processing of the maximum permitted daily incoming waste loading;

6. Facilities and all appurtenances, including all vehicles while onsite, shall be designed, positioned and buffered in such a manner that the sound levels generated by the operation shall not exceed limits established pursuant to the Noise Control Regulations, N.J.A.C. 7:29;

7. Facilities shall be designed in a manner which will prevent the migration of odors and mitigate the amount of dust outside the confines of the enclosed building in accordance with N.J.A.C. 7:27;

8. Facilities shall be designed in such a manner so as to afford fluid vehicular movement onsite in accordance with the approved on-site queuing plan and prevent traffic backups and related traffic hazards on access roads servicing the facility;

9. Offsite truck routes for the conveyance of solid waste shall be defined and delineated in such a manner as to minimize impacts on surrounding residential development or similar sensitive receptor. The truck traffic to and from the proposed facility shall not result in an unacceptable decrease in the level of service, as described and defined in the New Jersey Department of Transportation (NJDOT) Highway Access Management Code (N.J.A.C. 16:47), at major intersections located along the designated truck routes;

10. Facility layout design shall conform to the configuration of the site. A setback area shall be provided to allow for adequate buffering of the site. All main building enclosures shall be designed with a minimum setback of 50 feet from the facility property line. The Department shall allow a reduction in the setback limit if the applicant satisfactorily demonstrates that such a reduction

will not pose an adverse impact on the adjacent land use activities;

11. Facilities shall be designed with alarm and fire protection systems capable of detecting, controlling and suppressing any and all fires that may occur. All fire protection systems shall be designed to comply with N.J.A.C. 5:23-3.17 and the standards established by the National Fire Protection Association (NFPA);

12. The installation, maintenance, operation, and repair of all systems identified within the interior layout of the facility shall comply with the requirements established by the Federal Occupational Health and Safety Administration and the New Jersey Worker and Community Right to Know Act;

13. Facilities shall be designed and constructed in full conformance with the specifications and requirements of the Uniform Construction Code, N.J.A.C. 5:23;

14. The facility shall be designed so as not to place a demand exceeding the remaining use capability of existing physical utilities including, but not limited to, water supply, wastewater and stormwater collection and treatment systems, energy supply and transportation systems; and

15. The proposed ultimate disposal facility and location for all waste processed by the facility shall be identified.

(c) The site plan map shall include the following:

1. A layout of all facility buildings, structures and roadways which shall indicate the type of construction materials;

2. Profile views of all structures and enclosures showing dimensions. Plan views showing building setback, side and rear distances between the proposed structure and other existing or proposed structures, roadways, parking areas, and site boundaries;

3. Interior floor plan showing the layout, profile view and dimensions of the processing lines, interior unloading, sorting, storage and loading areas;

4. A description with detailed specifications of the proposed onsite and offsite transportation system which shall indicate the type of construction materials; and

5. A utilities plan identifying, locating and describing all utilities which will service the facility including, but not limited to, the storm water drainage system, sanitary sewer system, water supply system and energy system. A descriptive statement of the carrying capacities of the existing systems and the remaining availability within the system for the facility's utility needs.

(d) The engineering report shall include:

1. Descriptive and detailed specifications of all process equipment to be used, including the equipment's rated and designed capacity. Schematic diagrams shall be provided;

2. Equipment specifications including information pertaining to the make, model and manufacturer, if available, and the related processing equipment, reliability and efficiency shall be submitted;

3. A discussion of the maximum length of time that waste and, where applicable, recyclable materials will be stored at the facility; and

4. A description of any materials recycling or reclamation activities to be operated in conjunction with the facility.

(e) If the facility is to handle liquid or liquid-solid waste mixtures, the proposed methods to protect and monitor the quality of groundwater and nearby surface waters shall be indicated.

(f) If the materials recovery facility is designed with mechanical size reduction equipment, an explosion suppression system shall be included in the engineering design.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended (b); in (c)1, inserted reference to roadways; and in (c)5, inserted reference to energy system.

Administrative change.

See: 30 N.J.R. 3948(a).

7:26-2B.6 Additional engineering requirements for solid waste composting and co-composting facilities

(a) The requirements of this section are in addition to the requirements of N.J.A.C. 7:26-2.10.

(b) Co-composting facilities require a SWF permit and may also require one or more NJPDES permits from the Department in accordance with N.J.A.C. 7:14A.

(c) The engineering report for these facilities shall include the following:

1. A discussion of the quantity and composition of the waste streams entering the proposed facility in terms of:

i. Municipality of origin; and

ii. Weight, volume and corresponding load density characteristics.

2. If sewage sludge is to be co-composted with solid waste, identify the quantity and physical/chemical characteristics of each source of sewage sludge. Sludge characteristics will be reviewed by the Department for a determination of their suitability for acceptance and processing at the proposed solid waste composting facility. The following information shall be submitted for each individual source of sludge:

i. Identify the type of processing carried out at the sewage treatment plant source prior to dewatering (e.g. lime stabilization, digestion, long term storage, other);

(2) A minimum of five turnings over 15 consecutive days, maintaining a temperature of not less than 55 degrees Celsius/131 degrees Fahrenheit.

ii. Aerated static pile method which meets PFRP as follows:

(1) Pile insulated with six to 12 inches of insulating material (for example, sawdust, cured compost, or wood chips); and

(2) Temperature of at least 55 degrees Celsius/131 degrees Fahrenheit maintained throughout mixture for three consecutive days.

iii. Enclosed (within) vessel composting method which meets PFRP by:

(1) Temperature maintained at 55 degrees Celsius/131 degrees Fahrenheit throughout mixture for at least three consecutive days.

iv. Any future PFRP provided by Federal or State regulation.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended (b) and (c); in (d), inserted "Minimum depth of borings" column; and added (f).

Administrative change.

See: 30 N.J.R. 3948(a).

7:26-2B.7 Additional operational requirements for solid waste composting and co-composting facilities

(a) The requirements of this section are in addition to the general operational requirements of N.J.A.C. 7:26-2.11 and the solid waste facilities records maintenance requirements of N.J.A.C. 7:26-2.13.

(b) The owner and/or operator shall submit a quarterly report to the Department within 30 days after the end of each calendar quarter. The quarterly report shall include the following:

1. The quantity, type and source of incoming waste;
2. The quantity and types of recovered recyclables;
3. The quantity of compost produced;
4. The results of compost analysis;
5. The quantity, before blending, of compost sold or distributed, and markets;
6. The quantity of disposed residue, and sites;
7. Daily temperature readings and retention times during the composting process;
8. A summary of leachate management (collected, reused, and treated/ disposed);
9. A summary of major maintenance on leachate, temperature or other monitoring and control systems in operation; and

10. The standard procedures to assure data reliability.

(c) All compost analysis shall be performed by a laboratory certified pursuant to N.J.A.C. 7:18.

(d) The facility shall be operated under the supervision and control of properly trained individuals during all hours of operation, and access to facility shall be prohibited when facility is closed.

1. The owner and/or operator shall train all employees in appropriate facility operations, maintenance procedures, and safety and emergency procedures in accordance with the training plan developed pursuant to N.J.A.C. 7:26-2B.6(d)10.

(e) The owner and/or operator shall monitor and record the temperature of composting materials daily to ensure that the pathogen reduction criteria at N.J.A.C. 7:26-2B.6(f)11 are met.

(f) The owner and/or operator shall begin processing all incoming waste within three days. Any waste that is not processed within three days shall be sent for disposal. The owner and/or operator shall begin processing incoming waste containing grass within 24 hours unless the receiving area is fully enclosed and equipped with odor controls. For facilities without fully enclosed receiving areas, any waste containing grass that is not processed within 24 hours shall be sent for disposal.

(g) Incoming, unprocessed waste shall not be mixed with finished compost.

(h) Stored finished compost that is not sold or distributed within 15 months shall be removed for disposal or reprocessed for sale or distribution.

(i) In addition to the information required by N.J.A.C. 7:26-2.13(a), the daily record of facility operations shall include:

1. Daily temperature and moisture monitoring of the composting process;
2. Laboratory analyses;
3. The retention time of the composted material; and
4. The sale and distribution of recovered materials.

(j) The owner and/or operator shall develop a quality assurance (QA)/quality control (QC) plan to be included in the final operation and maintenance manual. Such plan shall outline the monitoring, sampling and analysis plans for testing the compost process and product.

(k) The Department shall set an appropriate monitoring and sampling schedule for the start-up period (one year) as part of the facility permit.

(l) Using information gained during the start-up period, a monitoring and sampling schedule for ongoing operations will be developed with the Department based on statistical methods for quality assurance.

(m) Representative samples of the compost shall be obtained in accordance with the approved plan. Samples of the compost produced at the facility shall be analyzed for the compost quality monitoring parameters listed in the Appendix to this subchapter, incorporated herein by reference, in accordance with the appropriate methods as approved in the sampling plan.

(n) Results of all laboratory analyses for each parameter shall be recorded and maintained at the facility and shall be reported to the Department as specified at (b) above.

(o) Any package containing compost offered for sale or distribution shall be labeled with the recommended safe uses and application rates, and restrictions, if any, on use of the product. If compost is offered for bulk sale or distribution, signs or printed literature containing such information shall be made available.

(p) Compost offered for sale or distribution shall satisfy the standards established by the USEPA at 40 C.F.R. 503. Specifically, compost offered for sale or distribution shall meet the pollutant concentrations in 40 C.F.R. 503.13(b)(3), the Class A pathogen requirements in 40 C.F.R. 503.32(A), and one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) through 503.33(b)(8). Compost not satisfying the standards established by the USEPA may be used only as authorized by the Department, or it shall be disposed.

(q) This subsection shall govern the closure and post-closure care of all composting and co-composting facilities.

1. The owner and/or operator of a permitted composting or co-composting facility shall not revise the final closure plan submitted pursuant to (c)12 above without prior approval of the Department. The owner and/or operator may submit an updated final closure plan, containing the proposed revisions to the Department at any time, provided that all revisions are submitted at least 180 days prior to termination of operations at the facility.

2. The owner and/or operator shall notify the Department, in writing, return receipt requested, at least 60 days prior to the date of termination of operations at the facility.

3. The owner and/or operator shall publish notice of termination of operations at the facility in a newspaper of general circulation in the district where the facility is located and in the district(s) or municipality(ies) sending at least 25 percent of their waste to the facility at least 30 days prior to the date of termination of operations at the facility.

4. Within 10 days of ceasing operation, all residuals and waste shall be removed from the site and recycled or disposed and the owner and/or operator shall arrange for a final cleaning of any containers, equipment, machines, floors and facility surfaces having come in contact with solid waste.

5. A composting facility shall be considered finally closed when all the requirements of the closure plan have been met.

New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

7:26-2B.8 Additional operational requirements for thermal destruction facilities

(a) The requirements of this section are in addition to the general requirements of N.J.A.C. 7:26-2.11;

(b) Subsequent to completion of the facility construction phase and prior to the initiation of facility operations, the New Jersey licensed professional engineer retained by the applicant to supervise the construction of the facility shall certify in writing to the Department that he or she has personally examined the facility during each major stage of construction and that the facility has been constructed in accordance with the documents, statements, designs and plans submitted to and as approved by the Department.

(c) The owner and/or operator of the facility shall provide written notification to the Department of the intent to initiate the start up of operations at the facility at least 30 days in advance of the planned date. During this initial period of facility start up the Department reserves the right to have a representative present at the facility to observe any equipment testing that is being conducted as well as the right to collect samples to verify results.

(d) Immediately following the initiation of operations, facility personnel shall begin routine inspections for equipment malfunction or deterioration and operating effectiveness, in accordance with the following:

1. The owner or operator shall conduct inspections as indicated in the approved final O and M manual in order to identify and remedy any problems; and

2. The owner and/or operator shall record the results of the inspections in a log book or by means of an electronic storage system approved by the Department which shall be accessible at the facility at all times for inspection by the Department. These records shall include the date and time of the inspection, the name of the inspector, a notation of observations and recommendations and the date and nature of any repairs or other remedial actions taken.

(e) A Department inspector may, at the option of the Department, be stationed at district facilities on a daily basis and during all facility operating hours. The owner and/or operator of such a facility shall allow entry to the inspector at any time during operating hours. The owner and/or operator shall make available office space for Department personnel to prepare inspection reports.

(f) The owner or operator shall implement waste receiving area control procedures that provide for the inspection of the incoming waste stream for the purpose of removing unprocessable or potentially explosive materials prior to the initiation of processing. In addition, the inspection shall effectively prevent the acceptance of unauthorized waste types. These procedures and necessary contingency plans shall be incorporated into the approved final O and M manual.

(g) Should situations arise where the facility experiences equipment or system malfunction to the extent that the waste received cannot be handled or processed in the normal manner, as specified in the facility's SWF permit, then the operator shall notify the Department of the existence of such a situation and the circumstances contributing to the situation within the working day of its occurrence. The operator shall immediately pursue corrective measures. The continued receipt of wastes at the facility shall be limited to that quantity and type that can be handled, stored and processed in conformance with that facility's remaining approved operational capacity.

(h) Arrangements for facility generated waste disposal shall be established and maintained throughout the life of the facility. These waste disposal arrangements shall be in conformance with the Solid Waste Management Plan of the District in which the facility is located and with the rules of the Department.

(i) Unprocessed incoming waste, facility process waste residues and effluents, and recovered materials shall be stored in bunkers, pits, bins, or similar containment vessels and shall be kept at all times at levels that prevent spillage or overflow.

(j) During periods when the facility is not processing wastes and during hours when waste is not being received, waste delivery tipping hall doors shall be kept closed to minimize potential migration of odors and dust to the exterior.

(k) The delivery of waste to the facility and the removal of residues and recovered products from the site shall be scheduled so as to eliminate traffic backups and allow for fluid vehicular movement on site. Delivery routes shall be clearly delineated and adhered to. Arteries that pass through non-residential areas shall be utilized wherever possible.

(l) Samples and measurements taken for the purpose of monitoring facility process and treatment operations shall be representative of the process or operation and shall be performed in accordance with the conditions of the facility's SWF permit, as well as the requirements of other regulatory agencies where applicable. Monitoring shall be conducted through the use of continuous monitoring instrumentation, where feasible.

(m) Prior to disposal, the owner and/or operator shall perform a waste determination on all residual ash, in accordance with N.J.A.C. 7:26-8.5. Such determination shall be based on analyses of representative composite samples collected in the manner specified in the facility's SWF permit. At a minimum the sampling shall include analyses for toxicity characteristics and total TCDDs (all tetrachlorodibenzo-p-dioxins), and shall be performed at the frequency specified in the facility's SWF permit.

(n) The Department may alter the list of ash test parameters, the methods of sample collection, the analytical procedures employed and the frequency of sampling and analysis, as it deems is necessary. The permittee may request the Department to reduce the number of ash test parameters specified within the solid waste facility permit by applying qualitative knowledge of incoming waste streams. If the owner and/or operator demonstrates through testing that the concentration of any given parameter is consistently below method detection levels as determined using the Toxicity Characteristic Leaching Procedure (TCLP), as defined in USEPA's Test Methods for Evaluating Solid Waste—Physical/Chemical Methods SW 846 (SW 846), or the concentration of any given parameter as determined using a total metals analysis, as defined in SW 846, is consistently below 20 times the regulatory threshold levels of the TCLP, the permittee may request the Department to eliminate those parameters from subsequent analysis.

(o) The analyses required by (m) and (n) above shall be performed in accordance with procedures outlined in the most recent edition of "Test Methods for Evaluating Solid Waste—Physical/Chemical Methods," U.S.E.P.A. publication SW-846.

(p) The results of ash analysis, including the statistical evaluation of the analytical data conducted in accordance with SW 846, and related quality assessment and quality control information pertaining to sample collection, handling and laboratory analytical methodology, shall be submitted to the Department for evaluation. The owner and/or operator shall dispose of the onsite generated residual ash at a facility authorized and permitted to receive the waste type I.D. number assigned to the residual ash by the Department in accordance with its classification.

(q) The operator shall retain original records of all waste analyses and operations' monitoring reports at the facility for a period of three years from the date of measurement.

(r) Records of operations' monitoring and waste analyses required by (q) above shall include:

1. The date, time and place of sampling, measurement or analysis;
2. Chain of custody for all samples collected;
3. The name of the individual who performed the sampling, measurement or analysis;
4. The sampling and analytical methods including the minimum detection levels for the analytical procedure utilized;
5. The results of such sampling, measurement or analyses; and
6. The signature and certification of the report by an appropriate authorized agent for the facility.

(s) The owner and/or operator shall act to prevent accidental or unintentional entry and minimize the possibility for unauthorized entry into the facility. The facility shall have a 24-hour surveillance system which continuously monitors and controls entry to the facility or an artificial or natural barrier which completely surrounds the facility. In addition, the facility shall have a means to control entry at all times through the gates or other entrances to the facility.

(t) The owner and/or operator shall comply with the following requirements pertaining to facility staffing:

1. Facilities shall maintain sufficient personnel during each scheduled shift to assure the proper and orderly operation of all system components, along with the ability to handle all routine facility maintenance requirements. Such personnel shall have sufficient educational background, employment experience and/or training to enable them to perform their duties in such a manner as to ensure the facility's compliance with the requirements of the Act, this chapter, and the conditions of its SWF permit;
2. Each shift shall have a designated shift supervisor authorized by the owner or operator to direct and implement all operational decisions during that shift;
3. A facility utilizing a boiler to generate steam, power or heat shall employ individuals licensed in accordance with the Rules and Regulations of the New Jersey Department of Labor, "Boilers, Pressure Vessels and Refrigeration," N.J.A.C. 12:90; and
4. Every district facility shall have under contract a New Jersey licensed professional engineer as a consultant to oversee the general plant operations. This engineer shall possess experience in the design and operation of the major system components or equipment that constitute the facility.

(u) The owner and/or operator shall comply with the following requirements pertaining to facility personnel training:

1. All personnel who are directly involved in facility waste management activities or who operate, service, or monitor any facility equipment, machinery or systems shall successfully complete an initial program of classroom instruction and on-the-job training that includes instruction in the operation and maintenance of the equipment, machinery and systems which they must operate, service or monitor in the course of their daily job duties, and which teaches them to perform their duties in a manner that ensures the facility's compliance with the requirements of the Act, this chapter and the conditions of its SWF permit;
2. The training program shall be directed by a person thoroughly familiar with the technology being utilized at the facility and the conditions of the facility's permits;
3. The training program shall ensure that facility personnel are able to effectively respond to any equipment malfunction or emergency situation that may arise. The training program shall provide instruction in the use of personal safety equipment, procedures for inspecting and repairing facility equipment, the use of communications or alarm systems, the procedures to be followed in response to fires, explosions or other emergencies, and the procedures to be followed during planned or unplanned shutdown of operations;
4. Employees hired shall not work in unsupervised positions until they have completed the training program required herein;
5. Facility personnel shall take part in a planned annual review of the initial training program; and
6. Training records that document the type and amount of training received by current facility personnel shall be kept until closure of the facility. Training records on former employees shall be kept for at least one year from the date the employee last worked at the facility.

(v) The following actions shall be implemented in the case of an emergency:

1. The plant operator or emergency coordinator shall immediately identify the character, exact source, amount and extent of any discharged materials and notify appropriate State or local agencies with designated response roles if their help is needed;
2. Concurrently, the plant operator or emergency coordinator shall assess possible hazards to public health or the environment that may result from the discharge, fire or explosion. This assessment shall consider both direct and indirect effects;

3. If the plant operator or emergency coordinator determines that the facility has had an uncontrolled discharge, a discharge above standard levels permitted by the Department, or a fire or explosion, he or she shall:

i. Immediately notify appropriate local authorities if an assessment indicates that evacuation of local areas may be advisable;

ii. Immediately notify the Department at (609) 292-7172; and

iii. When notifying the Department, report the type of substance and the estimated quantity discharged, if known, the location of the discharge, actions the person reporting the discharge is currently taking or proposing to take in order to mitigate and discharge and any other information concerning the incident which the Department may request at the time of notification.

4. The plant operator shall take all reasonable measures to ensure that fires, explosions and discharges do not recur or spread to other areas of the facility. These measures shall include, where applicable, the cessation of process operations and the collection and containment of released waste;

5. Immediately after an emergency, the plant operator or emergency coordinator shall provide for treating, storing or disposing of waste, contaminated soil or water or any other material contaminated as a result of the discharge, fire or explosion;

6. The plant operator or emergency coordinator shall insure that no waste is processed until cleanup procedures are completed and all emergency equipment listed in the contingency plan is again fit for its intended use;

7. The plant operator or emergency coordinator shall notify the Department and appropriate local authorities when operations in the affected areas of the facility have returned to normal; and

8. Within 15 days after the incident, the plant operator or emergency coordinator shall submit a written report on the incident to the Department. The report shall include, but not be limited to:

i. The name, address and telephone number of the facility;

ii. The date, time and description of the incident;

iii. The extent of injuries, if applicable, with names and responsibilities indicated;

iv. An assessment of actual damage to the environment, if applicable;

v. An assessment of the scope and magnitude of the incident;

vi. A description of the immediate actions that have been initiated to clean up the affected area and prevent a recurrence of a similar incident; and

vii. An implementation schedule for undertaking measures to effect cleanup and avoid recurrence of the incident, if applicable.

Amended by R.1989 d.216, effective April 17, 1989.
See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

500 tons-per-day capacity replaced by 250 tons-per-day minimum that allows an inspector to be stationed at a thermal destruction facility.
Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (b), substituted "facilities operations" for the "the testing phase"; rewrote (c), (j), and (n); in (d)2, inserted reference to electronic storage system; in (e) and (t)4, amended reference from facilities operating at a specified capacity to district facilities generally; in (m), inserted reference to owner and amended analysis requirements; substantially amended (p); inserted new (r)2; recodified existing (r)2 through (r)5 as (r)3 through (r)6; and in (r)4, added reference to minimum detection levels.

7:26-2B.9 (Reserved)

New Rule, R.1993 d.508, effective October 18, 1993.

See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Repealed by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted Emergency Repeal R.1997 d.404. Section was "Additional operational requirements for transfer stations and materials recovery facilities not specifically provided with a waste flow to their facility pursuant to N.J.A.C. 7:26-6".

7:26-2B.10 (Reserved)

Amended by R.1993 d.508, effective October 18, 1993.

See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Repealed by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted Emergency Repeal R.1997 d.404. Section was "Additional operational requirements for transfer stations and materials recovery facilities provided with waste flow to their facility pursuant to N.J.A.C. 7:26-6".

APPENDIX

COMPOST QUALITY MONITORING PARAMETERS

<u>Parameter</u>	<u>Unit</u>
Stability—respirometry	mg O ₂ /kg
O ₂ consumed	VS/hr
Soluble salts-electrical	mmhos/cm
Fecal coliform	MPN/g
Salmonella	MPN/4 g
pH	
Regulated parameters:	
Arsenic (As)	mg/kg dry wt.
Cadmium (Cd)	mg/kg dry wt.
Chromium (Cr)	mg/kg dry wt.
Copper (Cu)	mg/kg dry wt.
Lead (Pb)	mg/kg dry wt.
Mercury (Hg)	mg/kg dry wt.
Molybdenum (Mo)	mg/kg dry wt.
Nickel (Ni)	mg/kg dry wt.
Selenium (Se)	mg/kg dry wt.
Zinc (Zn)	mg/kg dry wt.
Man-made Inerts >4 mm, <13 mm	visual
Film plastic >4 mm	cm ² /m ³

<u>Parameter</u>	<u>Unit</u>
Sharps	PRS

Notes:

1. VS means volatile solids.
2. MPN means most probable number per gram of total solids in the sewage sludge or compost. MPN is an index of the number of coliform bacteria, reported by the multiple-tube fermentation procedure of the coliform test, that, more probably than any other number, would give the results shown by the laboratory examination; it is not an actual enumeration.
3. Mmhos is a unit of electrical conductivity, it is the reciprocal of ohm.
4. Man-made inert material includes glass shards and metal fragments that pose a human and animal safety hazard with unprotected exposure or through direct ingestion.
5. Film plastic can be a potential hazard to small animals through direct ingestion.

New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

SUBCHAPTER 3. TRANSPORTATION

7:26-3.1 Improper transportation prohibited

(a) The transportation of organic and/or combustible matter, including used oil as defined at N.J.A.C. 7:26A-1.3, or other forms of solid waste on the roadways and highways in this State shall be made only through the use of:

1. Transportation systems established, operated and maintained in accordance with the rules set forth in this subchapter;
2. Other methods of transportation as may be approved by the Department.

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

"Collection" and "haulage" replaced by "transportation" throughout.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), inserted reference to used oil.

Case Notes

Township ordinances were not preempted, with exception of section of township ordinance permitting township to ban persons deviating from access routes from further access to solid waste facility. *Clyde v. Mansfield Tp.*, 263 N.J.Super. 140, 622 A.2d 270 (A.D.1993).

Claim of broker status; unregistered transporter of solid waste subject to fine. In the Matter of Penn Foundry, Inc., 94 N.J.A.R.2d (EPE) 36.

7:26-3.2 Registration

(a) No person shall engage or continue to engage in the transportation of solid waste in this State without first obtaining an approved registration statement from the Department. The registration year, unless otherwise established by the Department, shall run from May 1 through April 30. An approved registration statement shall expire at the end of the registration year unless renewed pursuant to (d) below.

1. No person shall act as a prime contractor or sub-contractor for the transportation of solid waste in this State without first obtaining an approved registration statement from the Department.

i. For the purposes of this subchapter, a "prime contractor" means any person who enters into an oral or written agreement with a generator to store, collect, process, transfer, treat, or dispose of solid waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle.

ii. For the purposes of this subchapter, a "sub-contractor" means any person who engages in the storage, collection, processing, transfer, treatment, or disposal of solid waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle pursuant to an oral or written agreement entered into with a prime contractor for the performance of all or part of the prime contract. A lease, pursuant to this subchapter, of solid waste vehicle operators and/or equipment to a permittee, licensee, or exempt transporter, shall not, for purposes of this subchapter, be considered a subcontract.

2. Any device used for transportation of solid waste shall be registered with the Department as either a solid waste cab, trailer, container, or single-unit vehicle.

3. The registration statement shall be signed by the person engaged in or desiring to engage in the transportation of solid waste, shall be executed on forms prescribed by and furnished by the Department and shall state such information necessary and proper to the enforcement of this subchapter, as the Department may require.

4. A registrant shall not allow, through a subcontract or any other means, any such registered equipment to be used by another person, unless such person is an employee of the applicant or registrant, or unless such use is in accordance with a lease of vehicle operators pursuant to this subchapter.

5. A person who has not obtained an approved registration statement shall not, through a subcontract or any other means, engage or contract to engage in the transportation, storage, collection, processing, transfer, treatment, or disposal of solid waste in this State through the use, control or possession of any solid waste cab, vehicle, trailer, container, transport unit, or single-unit vehicle registered to any other person, or through any other means. The leasing of solid waste vehicle operators and/or equipment to a permittee, licensee, or exempt transporter, pursuant to this subchapter, shall not be deemed engaging or contracting to engage in said solid waste activities.

(m) The Department, after notice and opportunity for hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, may revoke the registration of a solid waste transporter for the following:

1. Any of the disqualifying reasons set forth in N.J.A.C. 7:26-16.8 and 16.9;
2. Violation of any applicable provision of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., this chapter, any administrative order issued by the Department, or any environmental protection statute of this State; or
3. A pattern of violations of the environmental protection statutes or regulations of this or any other State or of the United States.

As amended, R.1980 d.250, effective June 9, 1980.

See: 12 N.J.R. 70(b), 12 N.J.R. 391(d).

As amended, R.1981 d.49, effective February 6, 1981.

See: 13 N.J.R. 129(a).

(d): Amend "February 1" to "March 15."

As amended, R.1984 d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

(a): references to the Bureau deleted.

New (b) added, former (b)-(e) made (c)-(f). In (c), "without first obtaining" was "without having"; in (e), May 1 was March 15, "initial registration" was "implementation", hazardous waste haulers excepted from May 1 updating and required to file by October 1.

(g) and (h) added.

Amended by R.1985 d.558, effective November 4, 1985.

See: 17 N.J.R. 1041(a), 17 N.J.R. 2609(a).

Text "or hazardous" deleted.

Amended by R.1987 d.535, effective December 21, 1987.

See: 19 N.J.R. 1610(a), 19 N.J.R. 2434(a).

Added registrant and its operators to subsection (d).

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

New (h) added requiring all applicants to own or lease a vehicle being registered and if leased a copy of the lease must be supplied.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended section.

Amended by R.2000 d.75, effective February 22, 2000.

See: 31 N.J.R. 1429(a), 32 N.J.R. 693(a).

Rewrote the section.

Case Notes

Moving solid waste between states without approved registration or certificate triggers penalty for violating state's solid waste management laws. Department of Solid Waste Management v. Atlantic Inland Carriers, Inc., 97 N.J.A.R.2d (EPE) 3.

Dewatered sludge is solid waste; registrations and licenses to provide solid waste transportation services. In the matter of Solid Waste Services, Inc. 94 N.J.A.R.2d (EPE) 61.

7:26-3.3 Exceptions and conditions

(a) The provisions of this subchapter shall not be applicable to the following:

1. Persons transporting only their own household solid waste in passenger automobiles bearing general registration plates;
2. Persons transporting only their own solid waste in vehicles registered with the New Jersey Division of Motor Vehicles as having a maximum gross weight of 8,000 pounds; and
3. A person transporting used oil from mobile field changing operations.

(b) No provision of these rules shall be interpreted as permitting the transportation of domestic sewage in any manner other than that prescribed by law.

(c) Vehicles not registered with the Department as solid waste vehicles are not permitted to discharge solid waste at or near areas where commercial type solid waste vehicles are unloading or where heavy equipment is operating.

(d) A person transporting solid waste through New Jersey, when roadways and highways in New Jersey constitute a segment of such person's route, is not required to obtain an approved registration with the Department the circumstances listed in (d)1 and 2 below exist, and at least one of the circumstances listed in (d)3, 4 or 5 below exists:

1. The solid waste being transported through New Jersey is not discharged from the solid waste transportation vehicle;
2. Solid waste is not being collected, treated, processed, transferred, or disposed of in New Jersey by the solid waste transportation vehicle;
3. Solid waste is not being stored in excess of 24 hours in the solid waste transportation vehicle or container while in New Jersey;
4. The solid waste transportation vehicle has a mechanical breakdown and repair is necessary; and
5. The operator of the solid waste transportation vehicle must stop for a mandatory rest or break.

As amended, R.1974 d.234, eff. August 21, 1974.

See: 6 N.J.R. 343(c).

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

"Hauling" replaced by "transporting", "vehicles" as "solid waste vehicles" and maximum gross weight in (a)2 changed from 5,000 to 8,000 pounds.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added (a)3 and (d).

7:26-3.4 Transportation requirements (General)

(a) Length of service routes shall be kept consistent with the proper operation of solid waste vehicles and/or equipment in order that the area or route services can be completed during a normal operating day.

(b) All collected solid waste shall be properly deposited at an approved facility in accordance with N.J.A.C. 7:26-1 and 2. Solid waste or recyclable materials shall be deposited at a solid waste or recycling facility only to the extent the materials contained in an individual load are waste types and recyclable materials permitted for acceptance at that facility and commingled only to the extent permitted in the operating approvals for that facility.

(c) Unless an emergency, such as inclement weather, equipment breakdown or accident warrant, no solid waste shall be allowed to remain or be stored in any solid waste vehicles in excess of 24 hours.

(d) No solid waste vehicle shall be used for transportation if the design of the solid waste vehicle is such that any solid waste material will spill onto the roadways and highways of this State.

(e) No solid waste vehicle used for transportation shall be used beyond its design capabilities or in such a manner that littering and spillage of solid waste onto the roadways and highways of this State will occur.

(f) All solid waste vehicles used for the transportation of solid waste shall be maintained in good working condition to protect the health and safety of the workers and citizens of this State and to provide prompt and efficient service. The registered operator of any transportation system shall provide a means of continuous service in the event an emergency arises.

(g) All workers or collection crews operating solid waste transportation systems shall take reasonable care to protect the property of customers being served. Any damage or spillage of solid waste as a result of the transporter's actions shall be his or her responsibility.

(h) Each registered unit, including each container, of a solid waste vehicle, except those exempted from fee payment under N.J.A.C. 7:26-3.3, used in the collection or transportation of solid waste shall properly, permanently, and conspicuously display a current State of New Jersey solid waste decal and the New Jersey Department of Environmental Protection (N.J.D.E.P.) registration number in letters and numbers at least three inches in height, and, except for containers, shall carry the current N.J.D.E.P. registration certificate in the solid waste vehicle. Current solid waste decals must be permanently affixed to both sides of each solid waste vehicle, cab, trailer, single-unit vehicle, transport unit and container prior to use on a public roadway or highway and prior to the unit being placed into service or before receiving waste.

1. A copy of any lease filed in connection with the solid waste registration of a vehicle, cab, trailer, single unit vehicle, transportation unit or container shall be carried in the vehicle and made available to Department representatives upon inspection or request.

2. Only current year decals shall be displayed. The registrant of solid waste vehicles, cabs, trailers, single-unit vehicles, transport units and containers which are owned by the registrant shall, upon the interruption or termination of the exclusive use, possession or control of any such equipment by the registrant, notify the Department, return the N.J.D.E.P. registration certificate to the Department, and remove and destroy the N.J.D.E.P. registration number and decal on such solid waste vehicles, cabs, single-unit vehicles, transport units, trailers and containers. A registrant of solid waste vehicles, cabs, trailers, single-unit vehicles, transport units and containers which are leased shall, upon the expiration of the lease, or upon the interruption or termination of the exclusive use, possession or control of any such equipment by the registrant, notify the Department, return the N.J.D.E.P. registration certificate to the Department, and remove and destroy the N.J.D.E.P. registration number and decal on such solid waste vehicles, cabs, trailers, single-unit vehicles, transport units and containers.

3. In addition, there shall be affixed to both sides of each registered solid waste vehicle, cab, trailer, single-unit vehicle, transport unit and container in letters and numbers at least three inches in height, the capacity of the container in cubic yards, in tons or in gallons, with the appropriate unit designated, so as to be visible to the operator of the solid waste facility.

(i) Tarpaulins or covers shall be provided and used as needed while transporting solid wastes.

(j) All solid waste vehicles used for transportation of solid waste shall, except for operations of their collection service routes, access and exit solid waste facilities in accordance with designated solid waste vehicle routes as specified in either the appropriate district solid waste management plan or the permit for the particular solid waste facility.

(k) Any transporter that transports solid waste to or from an intermodal container facility operating without authorization pursuant to N.J.A.C. 7:26-3.6 shall be subject to all applicable penalties for violation of New Jersey solid waste planning rules at N.J.A.C. 7:26-6, including revocation of transporter registration, certification and transporter license.

(l) Any person that transports regulated medical waste to or from a collection facility operating without authorization pursuant to N.J.A.C. 7:26-3A.39 shall be subject to all applicable penalties set forth at N.J.A.C. 7:26-5 including revocation of transporter registration, certification and transporter license.

(m) All solid waste transporters shall haul solid waste in accordance with the Solid Waste Management Plan developed by the county or district of waste origin pursuant to N.J.A.C. 7:26-6. In a district which has designated in its District Solid Waste Management Plan a weighing facility or facilities for waste leaving the district, transporters shall deliver solid waste to a designated in-district weighing facility before the solid waste is removed from the district for out-of-district transfer, materials recovery, or disposal.

As amended, R.1976 d.303, effective November 1, 1976.

See: 8 N.J.R. 374(d), 8 N.J.R. 509(a).

Amended by R.1987 d.535, effective December 21, 1987.

See: 19 N.J.R. 1610(a), 19 N.J.R. 2434(a).

Added (j).

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

References to "collection and haulage" changed to "transportation", "vehicles" changed to "solid waste vehicles", at (h) requirement that N.J.D.E.P. registration number be permanently displayed.

Amended by R.1996 d.169, effective April 1, 1996.

See: 27 N.J.R. 801(a), 28 N.J.R. 1834(a).

Added (k).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (b), inserted N.J.A.C. reference and added last sentence; substantially amended (h); and added (l).

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Added (m). Readopted provisions of Emergency Amendment R.1997 d.404 without change.

Case Notes

New Jersey's waste flow control laws violated commerce clause. Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, D.N.J.1996, 931 F.Supp. 341.

Township ordinances were not preempted, with exception of section of township ordinance permitting township to ban persons deviating from access routes from further access to solid waste facility. Clyde v. Mansfield Tp., 263 N.J.Super. 140, 622 A.2d 270 (A.D.1993).

Regulation sets standards for use of collection vehicles to prevent spillage of solid wastes onto roadways; statute and regulations preempt municipal zoning ordinance as to sanitary landfill access road construction. Chester Twp. v. Dept. of Environmental Protection, 181 N.J.Super. 445, 438 A.2d 334 (App.Div.1981).

7:26-3.5 Transporter requirements (Specific)

(a) Rules concerning sewage sludge and other fecal material include:

1. All solid waste vehicles used for the transportation of such wastes shall be of such a design as to preclude any spillage or leakage onto the roadways and highways of the State.

2. Sewage sludge and other fecal material shall not be intermixed with other wastes of a chemical or industrial nature for transportation to a disposal operation.

(b) All solid wastes vehicles used for transportation of bulky wastes shall be of such a design so as to preclude any spillage onto the roadways and highways of the State.

(c) Radioactive materials regulated by the Atomic Energy Act of 1954 and lethal chemicals shall not be transported in or through the State of New Jersey without prior approval in writing by all authorities having jurisdiction in such matters and by the New Jersey Department of Environmental Protection.

(d) Rules concerning transportation of asbestos and asbestos-containing waste materials follow:

1. All solid waste vehicles used for the transportation of asbestos and asbestos-containing waste materials shall be of such a design so as to prevent any spillage or leakage or emissions therefrom.

2. No transporter shall transport asbestos and/or asbestos-containing waste materials unless such waste is properly packaged in accordance with 40 C.F.R. 61.150 and N.J.A.C. 7:26-2.12.

3. The asbestos or asbestos-containing waste materials shall be transported in a manner that prevents the rupture of the asbestos containers in loading, transport, and unloading operations.

4. Once collected, asbestos and/or asbestos containing waste materials shall be transported directly from the point of generation to the solid waste landfill or transfer station permitted to receive such wastes.

5. There shall be no visible air emissions during loading, transporting, or unloading operations.

(e) Each transporter, who hauls solid waste directly to out-of-State facilities from districts which have not designated an in-county weighing facility pursuant to N.J.A.C. 7:26-6, shall maintain a daily record of waste transported directly out-of-State. The record shall be retained for a period of at least one year or longer in the event of an unresolved enforcement action or at the Department's request. The daily record shall include but not be limited to the following information:

1. Identification of the transporter's DEP registration number and solid waste decal number;

2. Identification of the out-of-State disposal facility where the solid waste was disposed including the state in which the facility is located, the facility name and location address of the facility;

3. The cubic yardage or tonnage of solid waste types: ID 10 through ID 27, including any variants;

4. Date of delivery to the out-of-district facility;

5. The license plate number and State of the solid waste vehicle; and

6. The place of origin of the waste identified by municipality, county and state.

(f) Each transporter, who hauls solid waste directly to out-of-State facilities from districts which have not designated an in-county weighing facility pursuant to N.J.A.C. 7:26-6, shall submit monthly summaries of wastes transported directly out-of-State to the Division of Solid and Hazardous Waste, Bureau of Recycling and Planning and the Solid Waste Coordinator for the district of origin on forms provided by the Department (or duplication of same), no later than 20 days after the last day of each month. The summary shall include, but not be limited to, the following information:

1. Identification of the out-of-State disposal facility where the solid waste was disposed including the state in which the facility is located, the facility name and location address of the facility;
2. The tonnages and types of waste disposed of at each out-of-State facility; and
3. A listing by out-of-State disposal facility of the origin of the waste identified by New Jersey municipality and county and State.

Amended by R.1985 d.65, effective February 19, 1985.
See: 16 N.J.R. 440(a), 17 N.J.R. 446(a).

(e) added.

Amended by R.1985 d.558, effective November 4, 1985.
See: 17 N.J.R. 1041(a), 17 N.J.R. 2609(a).

Substantially amended.

Amended by R.1989 d.216, effective April 17, 1989.
See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Reference to "collection and haulage" changed to "transportation", "vehicle" changed to "solid waste vehicle" and CFR cite updated. Old (d) deleted. Old (e) recodified as new (d).

Emergency Amendment R.1996 d.114, effective January 26, 1996 (operative January 29, 1996, to expire March 26, 1996).

See: 28 N.J.R. 1305(a).

Adopted concurrent proposal, R.1996 d.202, effective March 26, 1996.

See: 28 N.J.R. 1305(a), 28 N.J.R. 2380(a).

Added (e).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (d)2, amended N.J.A.C. references and rewrote (d)4.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Deleted (a)5; recodified existing (a)6 as (a)5; rewrote (e); and added (f). Readopted provisions of Emergency Amendment R.1997 d.404 without change.

7:26-3.6 Intermodal container facility

(a) This section contains the regulations of the Department governing the authorization and operation of intermodal container facilities. Such facilities shall handle only containerized solid waste as defined at N.J.A.C. 7:26-1.4 and limited to the following solid waste types identified and listed at N.J.A.C. 7:26-2.13 as ID 10, 12, 13, 23, 25, 27, 72, 73, and 74. Such facilities shall not accept or in any manner handle regulated medical waste or hazardous waste, as defined at N.J.A.C. 7:26-1.4 and 3A.6 respectively. This subsection does not prohibit the operator of an authorized intermodal container facility from conducting other solid waste, regulated medical waste, or hazardous waste management activities at the site of the intermodal container fa-

cility, provided the operator complies with all applicable permitting and operating requirements for such activities pursuant to this chapter.

(b) A person registered and licensed in accordance with N.J.A.C. 7:26-3, 16 and 16A to transport solid waste in the State of New Jersey that seeks to operate an intermodal container facility shall submit an application containing all of the following information. Three copies of the entire application and all accompanying documents shall be submitted to the Department at the address specified in (c) below, and at the same time one copy each to the host municipality and district solid waste plan implementation agency:

1. The name, address and telephone number of the person or persons seeking to operate the proposed facility;

2. Photocopies of documents as evidence of the applicant's registration and licensing as a solid waste transporter pursuant to N.J.A.C. 7:26-3, 16 and 16A;

3. Photocopies of documents as evidence of all authorizations for siting, construction and operation, and conformance with all local, regional, State or Federal requirements of any governmental agency, or other body with jurisdiction over any aspect of the proposed facility;

4. A description of the geographical location of the facility, identifying the name of the municipality in which the facility is located and the address of the facility;

5. A copy of the tax map showing the lot and block numbers of the facility site and of all adjoining properties;

6. A description of the current use of the facility site and of all adjoining properties;

7. A letter of consistency with the district solid waste management plan from the district solid waste management plan implementing agency, established pursuant to N.J.S.A. 13:1E-21b(1), of the district where the facility is proposed to be located, which shall include any applicable comments from the host municipality. The Department may issue an authorization in the absence of a district letter of plan consistency should the Department determine, at its discretion, that the intermodal container facility is needed to help fulfill the objectives of the adopted and approved Statewide Solid Waste Management Plan or individual district solid waste management plans. In the event of such a determination, the Department shall notify the host district and municipality of its determination and reasons justifying facility authorization in writing prior to any approval of operations;

8. A list of all solid wastes by waste type as defined at N.J.A.C. 7:26-2.13, to be received and transferred at the facility;

9. A description of the maximum amount of each type of solid waste to be received and transferred at the facility

each day, expressed in tons per day and cubic yards per day, or gallons where applicable;

10. A description of the sources of the containerized solid waste and the anticipated disposal locations of the waste, both in-State and out-of-State;

11. A description of the type(s) and number of containers that will be used at the facility and the type and means of storage and staging of the containers;

12. Three copies of a site plan, prepared, signed, and sealed by a licensed New Jersey professional engineer or surveyor. The site plan must:

i. Identify the placement of all equipment, buildings, activities and areas related to the receipt, loading, unloading and temporary storage of containerized solid waste;

ii. Be drawn to a scale no greater than one inch equals 100 feet;

iii. Indicate the routing of vehicles between the facility and all nearby roadways serving the site, as well as the traffic flow within the site. Such routing must ensure safe and efficient vehicular and pedestrian circulation, parking, and loading and unloading of containers;

iv. Delineate floodplains as defined at N.J.A.C. 7:13-1.2;

v. Delineate the location of State-designated wetlands, New Jersey Pinelands, existing or suitable agricultural lands, Federal or New Jersey-registered historic sites and other environmentally sensitive areas such as State parks, wildlife management areas and National Wildlife Refuges;

vi. Identify the direction of water runoff both on-site and off-site and the screening and landscaping on the site;

vii. Indicate topographic contours, drawn at two-foot intervals; and

viii. Indicate all site access controls to be employed at the facility;

13. An original current 7.5 minute USGS Quadrangle map with the boundary of the facility plotted thereon. The map shall delineate any public access roads to the site and any streams, ponds or other potential sensitive receptors such as, but not limited to, hospitals, schools, and shopping areas within a one-half mile radius of the site;

14. A copy of the deed of record establishing ownership of the facility property or, if the applicant is a person other than the landowner, a legal agreement (for example, a lease) to use the real property for the purpose of operating the facility;

15. A description of the design capacity of the facility, setting forth the number and types of all vehicles arriving at the facility and the number and types of all vehicles leaving the facility on a daily basis, stating the maximum number of vehicles per hour that will arrive at and leave the facility;

16. A copy of any New Jersey air pollution control permit application as applicable, in accordance with N.J.A.C. 7:27; and

17. A narrative describing the facility operations from the receipt of containerized waste through the point of transfer to destination. The narrative must clearly demonstrate that containers will not be opened and that employees, the public or the environment will not be exposed to solid waste except as allowed in accordance with this section.

(c) The application described in (b) above shall be submitted in triplicate, along with the application fee set forth in N.J.A.C. 7:26-4.7, to:

Bureau of Resource Recovery and Transfer Facilities
Division of Solid and Hazardous Waste
New Jersey Department of Environmental Protection
PO Box 414
Trenton, New Jersey 08625-0414

(d) Within 45 days after the Department receives the application submitted pursuant to (b) above, the Department will take one of the following actions:

1. Issue either a letter of authorization to operate the intermodal container facility that shall specify that any other waste management activities conducted at the site where the intermodal container facility is operated shall be conducted in compliance with all applicable permitting and operational requirements under this chapter, or a denial of the application, to the applicant, with a copy to the host municipality and district solid waste plan implementation agency. A letter of authorization shall not be transferred to any other person;

2. Notify the applicant in writing of missing information, with a copy of the notice sent to the host municipality and district solid waste plan implementation agency; or

3. Notify the applicant in writing of any information that does not satisfy the requirements of (b) above, with a copy of the notice sent to the host municipality and district solid waste plan implementation agency.

(e) An applicant shall submit to the Department and to the host municipality and district solid waste plan implementation agency any additional or corrected information required pursuant to (d)2 or 3 above within 30 days of receipt of the notification from the Department of missing and/or insufficient information.

(f) The Department will deny without prejudice the application of any applicant that fails to submit the additional or corrected information required pursuant to (d)2 or 3 above or that otherwise fails to meet the application criteria of these regulations. The applicant may thereafter submit a new application for authorization to operate an intermodal container facility at the same location pursuant to the requirements of this section.

(g) All intermodal container facilities authorized by the Department pursuant to this section shall operate in accordance with the following standards:

1. Solid waste shall not remain at any intermodal container facility for more than 72 hours, except that ID 72 liquid solid waste may be stored for up to 180 days in sealed containers. An intermodal container facility at which solid waste is staged or stored for more than 72 hours, or at which ID 72 liquid solid waste is stored for more than 180 days, shall be deemed to be an illegal solid waste transfer station, and shall be subject to all penalties authorized pursuant to applicable statutes and rules.

2. Solid waste received, stored or transferred at any intermodal container facility shall at all times be contained in sealed containers registered as solid waste containers with the Department in accordance with N.J.A.C. 7:26-3 that do not leak any liquids or solid materials and are not opened for any purpose at the facility, except that an ID 72 liquid solid waste container may be opened briefly for the purpose of sampling the liquid provided the container is immediately resealed.

3. Solid waste contained in solid waste containers at any intermodal container facility shall not emit odors that are detectable at the facility or in the vicinity of the facility.

4. Access to any intermodal container facility shall be restricted to facility operators, solid waste vehicle operators and authorized visitors only. Effective security procedures shall be implemented to control entry and exit at all times. All solid waste containers staged or stored at the facility shall be secured at all times in a manner that prevents unauthorized access to the containers and their contents.

5. The Department's designated representatives and inspectors shall have the right to enter and inspect any building or any other portion of any intermodal container facility, at any time. This right to enter and inspect includes, but is not limited to:

- i. Observing and sampling any materials on site;
- ii. Photographing any portion of the facility, solid waste vehicles, containers, and container contents;
- iii. Investigating an actual or suspected source of pollution of the environment;
- iv. Ascertaining compliance or non-compliance with the statutes, rules, regulations, or policies of the De-

partment, including conditions of the facility's letter of authorization or any other permit or certificate issued by the Department; and

v. Reviewing and copying all applicable records described in this section, which shall be maintained at the facility at all times and shall be made available on request to Department representatives and inspectors at all reasonable times for review and inspection.

6. Intermodal container facilities shall comply with the requirements of the Federal Occupational Safety and Health Administration and all other applicable standards of any agency for the operation of the facility and the maintenance of the health and safety of the employees or other persons.

7. Routine housekeeping and maintenance procedures shall be implemented at the facility to prevent the accumulation of dust, debris and to maintain general cleanliness throughout the facility and in the working environment.

8. Any release or discharge of any solid waste at the intermodal container facility must be immediately reported by the facility operator or its designee to the DEP Emergency Response 24-hour Hot Line at (609)292-7172. The report must specify the type of substance discharged in estimated quantity, the nature of the discharge, the location of the discharge, any action being taken or proposed to be taken in order to mitigate the discharge, and any other information concerning the incident the Department may request at the time of notification.

9. The intermodal container facility operator shall designate an on-site emergency coordinator who will be available during all hours of operation for the purpose of handling emergency situations, such as, but not limited to, spills, discharges or releases of solid wastes at the facility.

10. Unless exempted under N.J.A.C. 7:26-6.3, all containerized solid waste accepted at the intermodal container facility from New Jersey sources shall be disposed of in accordance with applicable District Solid Waste Management Plans. Any out-of-State solid waste accepted at an intermodal container facility shall be disposed of consistent with the provisions set forth in the approved District Solid Waste Management Plan for the district in which the facility is located, or, where applicable, at permitted out-of-State disposal facilities authorized by the receiving state.

11. The intermodal container facility operator shall develop and maintain at the site an operations and maintenance (O&M) manual that shall describe all operating conditions and procedures of the facility. The O&M manual shall be made available to all facility personnel. The O&M manual shall be prepared in accordance with N.J.A.C. 7:26-2.10(b)9.

(h) An intermodal container facility operator shall maintain the following records at the facility site at all times and shall file reports as follows:

1. Daily records shall be maintained on forms supplied by the Department, in accordance with N.J.A.C. 7:26-2.13. These reports shall note the name of the registered transporter, transporter's DEP registration number, vehicle plate number, waste type, waste quantity, solid waste container DEP registration number, source, destination facility name and State registration number and quantity, by vehicle, of all solid waste received, transferred and shipped at the facility. The records shall specify the source for every shipment of waste received and the destination of every shipment of waste out of the facility. Quantities of solid waste shall be listed in tons and cubic yards. Quantities of liquid solid wastes shall be listed in gallons.

2. The daily records shall be compiled into standard quarterly reports, which shall be submitted to the following address within 20 days of the end of each calendar quarter:

Bureau of Recycling and Planning
 Division of Solid and Hazardous Waste
 New Jersey Department of Environmental Protection
 PO Box 414
 Trenton, NJ 08625-0414

3. Records that document all violations of any local, State or Federal requirements including violations of the intermodal container facility authorization issued by the Department.

4. Records that document all incidents in which a transporter not registered and licensed pursuant to N.J.A.C. 7:26-3, 16 and 16A, or container not registered pursuant to N.J.A.C. 7:26-3, was denied transfer privileges at the facility. These records shall specify the vehicle driver's name, the vehicle license number, the vehicle registration number, the name of the company operating the vehicle, the solid waste registration number of the company, the date and time of the denial, the size of the vehicle or container, and the type of solid waste in the container. These incidents shall also be reported within 24 hours to the Department's Office of Enforcement field office nearest the facility.

(i) Any person that conducts any of the activities of an intermodal container facility as defined in this section without authorization from the Department, or without a solid waste transfer station permit issued pursuant to N.J.A.C. 7:26-2A, shall be deemed to be operating an illegal solid waste facility and shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E, and N.J.A.C. 7:26-5.

(j) Any authorized intermodal container facility that accepts unauthorized waste, or fails to operate in compliance with the requirements of this section, shall be deemed an illegal solid waste facility and shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E, and N.J.A.C. 7:26-5.

(k) Any authorized intermodal container facility that accepts containerized solid waste from a transporter not registered and licensed pursuant to N.J.A.C. 7:26-3, 16 and 16A shall be subject to penalties for violation New Jersey solid waste planning rules at N.J.A.C. 7:26-6, including, but not limited to, revocation of transporter, registration, certification and licensing, and revocation of intermodal container facility authorization.

(l) The Department may revoke the authorization of an intermodal container facility if that facility fails to comply with the requirements for such facilities or any law in any way related to the operation of an intermodal container facility pursuant to New Jersey statute or the Department determines that any of the causes for modification in (m) below are sufficient cause for revocation in order to protect human health, safety and the environment.

(m) The Department may modify an intermodal container facility authorization for the following reasons. The operator shall pay a fee as specified in N.J.A.C. 7:26-4.7(e) on issuance of any intermodal facility authorization modification:

1. The Department determines that there are material and significant alterations or additions to the authorized facility or operation that occurred after the Department issued the existing letter of authorization that warrant the imposition of conditions different from or lacking in the existing authorization;

2. The Department receives information that was not available at the time it issued the letter of authorization that would have warranted the issuance of conditions in the authorization different from those imposed in the existing authorization. This information may include, but not be limited to, information concerning the effects of the facility on the properties surrounding the facility or the effects of the facility on the environment;

3. A change in Federal or State laws, regulations or policies governing solid waste management;

4. The regulatory compliance record of the intermodal container facility operator;

5. A relevant judicial decision after the authorization was issued; or

6. An operator of an intermodal container facility shall request a modification of its authorization whenever the operator proposes to change any aspect of the operation as originally described in the application. Such changes include, but are not limited to, changes in the amount and type of solid waste managed at the facility.

i. A request for modification of the intermodal container facility authorization pursuant to this paragraph need not be submitted for a change in the origin or disposal location for containerized waste transported to or from the facility, provided:

(1) The waste is transported only to disposal facilities that possess all required permits and authorizations pursuant to Federal and state law where such facility is located; and

(2) The intermodal container facility notifies the Department and the district from which the waste originated of the change in origin or disposal location within 24 hours of any shipment of waste.

(n) The Department shall provide 30-day prior notice of a modification to an authorization to operate an intermodal container facility pursuant to (m) above and its reasons for determining a modification is warranted. This notice shall be sent to the operator of the facility and the host municipality and district solid waste plan implementation agency.

New Rule, R.1996 d.169, effective April 1, 1996.

See: 27 N.J.R. 801(a), 28 N.J.R. 1834(a).

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted provisions of Emergency Amendment R.1997 d.404 without change.

7:26-3.7 Smoking, smoldering or burning solid waste in solid waste vehicles

(a) No transporter shall provide service where waste materials to be collected and transported show evidence of smoking, smoldering or burning.

(b) All wastes in transit that must be dumped in an emergency due to smoking, smoldering or burning shall be the responsibility of the transporter. The operator of the solid waste vehicle shall immediately notify the police and fire departments having jurisdiction. The transporter shall be responsible for cleanup of all materials dumped in an emergency.

(c) In the event of an incident involving smoking, smoldering or burning solid waste in any solid waste vehicle, the registrant shall notify the Department at (609) 292-7172 within 24 hours of the incident.

Amended by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

References to "collector-haulers" changed to "transporter", "solid waste vehicle" added in title line.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added (c).

7:26-3.8 Applicability

See N.J.A.C. 7:26G to find additional hazardous waste rules.

R.1982 d.433, effective December 6, 1982.

See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a).

Amended by R.1985 d.558, effective November 4, 1985.

See: 17 N.J.R. 1041(a), 17 N.J.R. 2609(a).

Deleted text "The regulations in ... with hazardous waste." and added "additional".

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

SUBCHAPTER 3A. REGULATED MEDICAL WASTE

7:26-3A.1 Purpose, scope and applicability

(a) The purpose of this subchapter is to establish a program for regulated medical waste pursuant to the New Jersey Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq.

(b) The rules in this subchapter apply to regulated medical waste as defined at N.J.A.C. 7:26-3A.6. that is generated, stored, transported, collected, transferred, treated, destroyed, disposed of or otherwise managed in New Jersey.

(c) Generators, transporters, collection facilities and owners or operators of intermediate handling facilities (for example, treatment and destruction facilities, incineration facilities, and disposal facilities) that generate, store, transport, collect, transfer, treat, destroy, dispose of or otherwise manage regulated medical waste in New Jersey shall comply with this subchapter.

(d) In addition to the requirements of this subchapter, all applicable requirements of the Department of Health shall be met.

(e) In addition to the requirements of this subchapter, generators, transporters, collection facilities and owners and operators of intermediate handling facilities and destination facilities shall comply with all applicable Federal, State, county and local statutes, rules and ordinances.

(f) Any fee under this subchapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

Amended by R.1995 d.205, effective April 17, 1995.

See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Inserted references to collected medical waste and collection facilities throughout; deleted former (f); and recodified (g) as (f).

7:26-3A.2 Construction

This subchapter shall be liberally construed to permit the Department to implement its statutory duties.

7:26-3A.3 Severability

If any section, subsection, provision, clause or portion of this subchapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this subchapter shall not be affected thereby.

7:26-3A.4 Record retention

(a) The length of time that parties shall keep records required under this subchapter is automatically extended in the case where EPA, the Departments or another State agency initiates an enforcement action, for which those records are relevant, until the conclusion of the enforcement action.

(b) All records, reports, logs and tracking forms required to be made and/or kept in accordance with this subchapter shall be made available for inspection by the Department.

7:26-3A.5 Definitions

For the purposes of this subchapter, all of the terms defined in N.J.A.C. 7:26-1.4 are hereby incorporated by reference. In addition, the following terms, when used in this subchapter, shall have the following meanings:

“Administrator” means the Administrator of the United States Environmental Protection Agency.

“Alternative or innovative technology” means any technology, including proprietary or patented methods, that permanently alters the composition, volume, weight, or other relevant waste or material characteristics of regulated medical waste, through chemical, biological, or physical means so as to have a beneficial and long-term effect on the environment by reducing the quantity (volume or weight), infectiousness, toxicity, or constituent mobility of waste or materials generated, recovered, recycled, treated, transported, disposed of or otherwise managed. The term also includes products or production processes that promote or enhance material recovery, recycling or marketing of secondary materials, or that reduce or eliminate waste or emissions at the source of generation.

“Biologicals” means preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing or treating humans or animals or in research pertaining thereto.

“Blood products” means any product derived from human blood, including but not limited to blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon, etc.

“Body fluids” means liquid emanating or derived from humans and limited to blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids; and semen and vaginal secretions.

“Central collection point” means a location where a generator consolidates regulated medical waste brought together from original generation points prior to its transport off-site or its treatment on-site (for example, incineration).

“Collection facility” means a facility where individual shipments of packaged, tracked regulated medical waste are assembled and/or consolidated, or transferred between vehicles, but are not opened or unpackaged prior to transport off-site for disposal.

“Commercial facility” means a facility or on-site generator, accepting regulated medical waste from other generators for on-site collection, storage, shipment or disposal, for a fee in excess of the costs actually incurred by the facility or on-site generator for managing the regulated medical waste.

“Consolidated tracking form” means the tracking form on which a transporter consolidates or transfers other tracking forms representing shipments of regulated medical waste.

“Container” means any portable device in which a regulated medical waste is stored, transported, disposed of or otherwise handled. The term “container” does not include items listed in the table at N.J.A.C. 7:26-3A.6(a).

“Decontamination” means the process of reducing or eliminating the presence of harmful substances, such as infectious agents, so as to reduce the likelihood of disease transmission from those substances.

“Departments” means the New Jersey Department of Environmental Protection and the New Jersey Department of Health.

“Destination facility” means the disposal facility, the incineration facility, or the facility that both treats and destroys regulated medical waste, to which a consignment of such is intended to be shipped, specified in Box 8 of the Medical Waste Tracking Form. The term “destination facility” also means any generator or facility that treats and destroys its own regulated medical waste.

“Destroyed regulated medical waste” means regulated medical waste that is no longer generally recognizable as regulated medical waste because all components of the waste have been ruined, torn apart, or mutilated to produce unrecognizable and unusable pieces smaller than three-quarters of an inch, except that all sharps must be smaller than one-half inch. It does not mean compaction or encapsulation except through:

1. Processes such as thermal treatment or melting, during which treatment and destruction occur;
2. Processes such as shredding, grinding, tearing, or breaking, during which only destruction takes place; or

3. Processes that melt plastics and fully encapsulate metallic or other sharps and seals waste completely in a container that will not be penetrated by undestroyed sharps.

“Destruction facility” means a facility that destroys regulated medical waste by ruining or mutilating it, or tearing it apart.

“DOH” or “NJDOH” means the New Jersey Department of Health.

“EPA” means the United States Environmental Protection Agency.

“Facility” means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, destroying, storing, or disposing of regulated medical waste. A facility may consist of several treatment, destruction, storage, or disposal operational units.

“Generator” means any person, by site, whose act or process produces regulated medical waste as defined in N.J.A.C. 7:26-3A.6, or whose act first causes a regulated medical waste to become subject to regulation. Noncontiguous properties owned or operated by the same person are separate sites and in the case where more than one person (for example, doctors with separate medical practices) are located in the same building and office, each individual business entity is a separate generator for the purposes of this subchapter. However, households utilizing home self-care are not generators.

“Home self-care” means the provision of medical care in the home setting (for example, private residence) through either self-administration practices or by a family member or other person who does not receive monetary compensation for their services. Excluded from this definition are direct patient care services provided in the home by home health agencies as described in N.J.A.C. 8:42-1, durable medical equipment companies, home infusion companies, hospice care companies, and any other services or companies as determined by the State Department of Health that generate regulated medical waste in the home setting.

“Infectious agent” means any organism (such as a virus or a bacteria) that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

“Intermediate handler” is a facility that either treats regulated medical waste or destroys regulated medical waste but does not do both. The term does not include transporters.

“Laboratory” means any research, analytical, or clinical facility that performs health care related analysis or service. This includes medical, pathological, pharmaceutical, and other research, commercial, or industrial laboratories.

“Medical waste” means any solid waste that is generated in the diagnosis, treatment (for example, provision of medical services), or immunization of human beings or animals, in research pertaining thereto, in the production or testing of biologicals, or in home self-care. The term does not include any hazardous waste identified or listed under 40 C.F.R. Part 261.

“New Jersey medical waste tracking form” means the New Jersey medical waste tracking form available from the Department that must accompany all applicable shipments of regulated medical wastes.

“Noncommercial facility” means a facility or on-site generator accepting regulated medical waste from other generators for on-site collection, storage, shipment or disposal operating in accordance with section 501(c)(3) of the Federal Internal Revenue Service tax code, receiving only a cost-based rate or fee not in excess of the fixed and variable capital and operating costs actually incurred.

“Original generation point” means the location where regulated medical waste is generated. Waste may be taken from original generation points to a central collection point prior to off-site transport or on-site treatment.

“Oversized regulated medical waste” means medical waste that is too large to be placed in a plastic bag or standard container.

“Package” means packaging and/or a container and its contents.

“Packaging” means the assembly of one or more containers and any other components necessary to ensure compliance with N.J.A.C. 7:26-3A.11.

“Person” means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, any interstate body, or any department, agency or instrumentality of the United States.

“Regulated medical waste” or “RMW” means those medical wastes that have been listed or meet the waste characteristic classification criteria described at N.J.A.C. 7:26-3A.6 and that must be managed in accordance with the requirements of this subchapter.

“Storage” means the temporary holding of regulated medical wastes before treatment, disposal, or transport to another location.

“Tracking form” means a medical waste tracking form, including the New Jersey medical waste tracking form, the Federal tracking form, and the tracking form from other states that must accompany all applicable shipments of regulated medical waste.

“Transfer facility” means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of regulated medical waste are held (come to rest), during the course of transportation for a period not to exceed 24 hours and are not transferred to other vehicles during the course of transportation. A transfer facility is a “transporter”. A location at which regulated medical waste is transferred directly between two vehicles is not a transfer facility but is considered

a collection facility if it meets the requirements of N.J.A.C. 7:26-3A.39; if such location does not meet the requirements of N.J.A.C. 7:26-3A.39, the facility must hold a permit as a transfer station pursuant to N.J.A.C. 7:26-2.4.

“Transportation” means the shipment or conveyance of regulated medical waste by air, rail, highway, or water.

“Transporter” means a person engaged in the off-site transportation of regulated medical waste by air, rail, highway, or water, and, for the purposes of N.J.A.C. 7:26-3A.9(h), means a supplier of radioactive medical supplies.

“Treated regulated medical waste” means regulated medical waste that has been treated to substantially reduce or eliminate its potential for causing disease, but has not yet been destroyed.

“Treatment”, “treated”, or “treats” when used in any section of this subchapter except for N.J.A.C. 7:26-3A.6(a), shall mean to change the biological character or composition of any regulated medical waste to reduce or eliminate its potential for causing diseases through such methods, techniques or processes as incineration, steam sterilization, chemical disinfection, irradiation, thermal inactivation, or any other effective method as approved by the State Department of Health. If antimicrobial chemicals are used in regulated medical waste treatment the chemicals must be registered under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) program specifically for this purpose. When used in the context of N.J.A.C. 7:26-3A.6(a), treatment means either the provision of medical services or the preparation of human or animal remains for interment or cremation.

“Treatment facility” means a facility which treats regulated medical waste.

“Universal biohazard symbol” means the symbol design that conforms to the design shown in 29 C.F.R. § 1910.145(f)(8)(ii).

“Untreated regulated medical waste” that has not been treated to substantially reduce or eliminate its potential for causing disease.

“Waste category” means either untreated regulated medical waste or treated regulated medical waste.

“Waste Class” means the description of Waste Class found at N.J.A.C. 7:26-3A.6(a).

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Section formerly divided into two subsections which were combined into single definition list; added “collection facilities”, “commercial facility”, “consolidated tracking form”, “container”, “DOH”, “noncommercial facility”, “package”, and “packing”; deleted “federal demonstration project”; and amended “generator”, “transfer facility”, “transporter”, and “treatment”.

7:26-3A.6 Definition of regulated medical waste

(a) A regulated medical waste is any solid waste, generated in the diagnosis, treatment (for example, provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that is not excluded or exempted under (b) below, and that is listed or meets any waste characteristic classification criteria described in the following table:

TABLE
REGULATED MEDICAL WASTE

Waste Class	Description
1. Cultures and Stocks	Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.
2. Pathological Wastes	Human pathological wastes, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.
3. Human Blood and Blood Products	Liquid waste human blood; blood; items saturated and/or dripping with human blood; or items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags, soft plastic pipettes and plastic blood vials are also included in this category.
4. Sharps	Sharps that were used in animal or human patient care or treatment or in medical research, or industrial laboratories, including sharp, or potentially sharp if broken, items such as, but not limited to, hypodermic needles, all syringes to which a needle can be attached (with or without the attached needle) and their components, including those from manufacturing research, manufacturing and marketing, pasteur pipettes, scalpel blades, blood vials, carpules, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.
5. Animal Waste	Contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals, or testing of pharmaceuticals.
6. Isolation Wastes	Biological waste and discarded materials contaminated with blood, excretion, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.

Waste Class	Description
7. Unused Sharps	The following unused, discarded sharps, that were intended to be used: hypodermic needles, suture needles, syringes, and scalpel blades.

(b) The following are excluded from the definition of regulated medical waste:

1. Hazardous waste identified or listed under the regulations in 40 C.F.R. Part 261;
2. Household waste, generated in households utilizing home self-care as defined in N.J.A.C. 7:26-3A.5(b);
3. Ash from incineration of regulated medical waste once the incineration process has been completed;
4. Residues from treatment and destruction processes once the regulated medical waste has been both treated and destroyed;
5. Human corpses, remains and anatomical parts that are intended for interment or cremation;
6. Biological materials, including, but not limited to, those blood or blood products and pathological waste listed at (a)2 and 3 above, intended for use, reuse or recycling as raw materials or products, except materials classified as Class-6, Isolation Waste pursuant to (a)6 above if the following conditions are met:

i. The materials are used, reused or recycled in accordance with all applicable Federal, State and local statutes and regulations for handling and managing the materials;

ii. The materials and their by-products are managed as regulated medical waste when discarded after use, reuse or recycling if not treated and destroyed as those terms are defined at N.J.A.C. 7:26-3A.5; and

iii. The generator of the materials reports the type, destination, and method of use, reuse or recycling of the materials to the Bureau of Medical Waste and Technical Assistance in the Department at the address given at N.J.A.C. 7:26-3A.8(e)4 and the district solid waste coordinator of the district where the material originated at least once per year, or on request of the Department or any other agency; and

7. Nonbiological materials intended for use, reuse or recycling, except materials classified as Class-6, Isolation Waste pursuant to (a)6 above, if the following conditions are met:

i. The generator treats all used materials, or any unused materials, that have come into contact with a regulated body fluid or blood, or pathological waste as defined at (a) above at the site of generation before shipping the materials off site;

ii. The generator destroys all sharps at the site of generation before shipping the destroyed sharps off site

for recycling of the devices' component raw materials; and

iii. The generator of the materials reports the type, quantity, destination, and method of use, reuse or recycling of the materials to the Bureau of Medical Waste and Technical Assistance in the Department at the address given at N.J.A.C. 7:26-3A.8(e)4 and the district solid waste coordinator of the district where the material originated at least once per year, or on request of the Department or any other agency.

(c) The following are exempted from the definition of regulated medical waste:

1. Etiologic agents being transported interstate pursuant to the requirements of the U.S. Department of Transportation, U.S. Department of Health and Human Services, and all other applicable shipping requirements are exempt from the requirements of this subchapter; and
2. Samples of regulated medical waste transported off-site by the EPA, the Department, the Department of Health or the New Jersey Department of Law and Public Safety for enforcement purposes are exempt from the requirements of this subchapter during the enforcement proceeding.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), inserted text "or meets . . . criteria described" and amended descriptions in medical waste table; and added (b)6 and (b)7.

7:26-3A.7 Mixtures

(a) Except as provided in (b) below, mixtures of solid waste and regulated medical waste listed in N.J.A.C. 7:26-3A.6(a) are a regulated medical waste.

(b) Mixtures of hazardous waste identified or listed in 40 C.F.R. Part 261 and regulated medical waste listed in N.J.A.C. 7:26-3A.6(a) are subject to the requirements in this subchapter, unless the mixture is subject to the hazardous waste manifest requirements in 40 C.F.R. Part 262 or 40 C.F.R. Part 266. In addition, the applicable hazardous waste requirements of N.J.A.C. 7:26-1 also apply.

7:26-3A.8 Registration and fees for regulated medical waste generators, and owners and operators of transporters, collection facilities, transfer stations, intermediate handlers and destination facilities.

(a) Any person that generates regulated medical waste in this State shall register with the Department as a regulated medical waste generator in accordance with (e) below, and shall pay annual fees in accordance with the following:

1. For computation of the annual regulated medical waste generator fee, generators of regulated medical waste are divided, according to the amount of waste generated, into five categories as explained in the following table:

Generator Category	Pounds Generated Per Year	Base Fee Category
1	less than 50	\$ 85.00
2	50-200	\$ 255.00
3	200-300	\$ 425.00
4	300-1000	\$ 850.00
5	greater than 1,000	\$2,950.00

i. For annual regulated medical waste generator fee purposes only, quantities of body fluids and blood and blood products that are discharged or removed from a human and are disposed of into a sanitary sewer system, which shall be in compliance with all applicable Federal, State, and county and local statutes, rules and ordinances, shall not be included in a generator's annual calculation of regulated medical waste generated, but at a minimum, if the generator generates no other regulated medical waste, the generator shall be included in generator category 1.

(b) Any person that engages or continues to engage in the transportation of regulated medical waste in this State, except generators that transport their own waste and that meet the requirements of N.J.A.C. 7:26-3A.17(a), shall register with the Department as a regulated medical waste transporter in accordance with (e) below, and pay annual fees in accordance with the following:

1. All regulated medical waste commercial transporters shall pay an annual fee of \$3,950.00.
2. All noncommercial generator transporters of RMW shall pay an annual fee of \$650.00.

(c) Commercial intermediate handlers, intermediate handlers treating, destroying or disposing of their RMW on-site and owners and operators of destination facilities shall register with the Department as a regulated medical waste intermediate handler or destination facility in accordance with (e) below, and pay annual fees in accordance with the following:

1. All regulated medical waste intermediate handlers and destination facilities shall register with the Department and pay an annual registration, compliance inspection, technical advisement and report analysis fee in accordance with the following:

- i. A destination facility that treats and destroys less than 1,000 pounds of regulated medical waste produced shall pay a registration fee of \$50.00 per year.
- ii. A destination facility that treats and destroys from 1,000 pounds up to and including 10,000 pounds of regulated medical waste produced per year shall pay a registration fee of \$500.00 per year.
- iii. A destination facility that treats and destroys more than 10,000 pounds of regulated medical waste per year shall pay a registration fee of \$2,000 per year.

2. A commercial intermediate handler shall pay an annual registration fee of \$1,500.

3. A noncommercial intermediate handler, or an intermediate handler treating only its own waste that treats any quantity of liquid regulated medical waste that is disposed of into the sanitary sewer system, and treats less than 10,000 pounds of nonliquid regulated medical waste per year and sends that waste off-site as RMW for treatment, destruction or disposal is exempt from the intermediate handler annual registration fee but shall register as an intermediate handler pursuant to this section.

4. Persons that only dispose of regulated medical waste that they generate by placing body fluids or blood and blood products into the sanitary sewer system, in compliance with all applicable Federal, State, county and local statutes, rules and ordinances, shall not be considered an intermediate handler or destination facility.

(d) Each person authorized by the Department pursuant to N.J.A.C. 7:26-3A.39 to operate a collection facility for medical wastes shall pay fees in accordance with the following:

1. Commercial collection facilities shall pay an application fee of \$500.00. The application fee shall be submitted with the application required pursuant to N.J.A.C. 7:26-3A.39(c).

2. Commercial collection facilities shall pay an annual fee of \$350.00 for the costs of registration, quarterly compliance monitoring, and review and maintenance of the quarterly reports submitted pursuant to N.J.A.C. 7:26-3A.39(j) and the annual reports submitted pursuant to N.J.A.C. 7:26-3A.44.

3. Collection facilities shall pay the costs of any other inspections or activities conducted by the Department for the authorization, inspection, and revocation of authorization to operate a collection facility. Such costs shall be in accordance with the fee schedule set forth at (f) below and N.J.A.C. 7:26-4.3.

4. Commercial collection facilities shall pay a fee of \$250.00 for an authorization modification issued pursuant to N.J.A.C. 7:26-3A.39(o), which shall be paid on issuance of the authorization modification.

5. Noncommercial collection facilities collecting up to 2,000 pounds of medical wastes per year shall pay an annual fee of \$10.00 for the cost of registration.

6. Noncommercial collection facilities collecting more than 2000 pounds of medical wastes per year shall pay an annual fee of \$150.00 for the cost of registration.

(e) Each person operating a transfer station and authorized by the Department to manage medical waste pursuant to N.J.A.C. 7:26-3A.39 shall pay an annual fee of \$2,000 in addition to all other solid waste transfer station facility-related fees pursuant to N.J.A.C. 7:26-4, for the costs of registration under this subchapter, review and maintenance of reports, and compliance monitoring.

(f) Each generator, transporter, intermediate handler, collection facility, transfer station and destination facility shall register with the Department on regulated medical waste registration forms prescribed by and available from the Department at the address listed below and shall state such information as necessary and proper to the enforcement of this subchapter, as the Department may require. No pro rata adjustment or refund for prior registration year payment of fees shall be made by the Department. Fees shall be payable to the Department 30 days after the beginning of each respective registration year in accordance with the following schedule:

1. The registration year for generators shall extend from July 22 through July 21 of each calendar year and fees shall be payable by August 20 of each calendar year;

2. The registration year for transporters shall extend from May 1 through April 30 of each calendar year and fees shall be payable by May 30 of each calendar year;

3. The registration year for intermediate handlers, collection facilities and destination facilities shall extend from January 1 through December 30 of each calendar year and fees shall be payable by January 29 of each calendar year; and

4. The Department's address for regulated medical waste is:

Bureau of Technical Assistance
Division of Solid and Hazardous Waste
New Jersey Department of Environmental Protection
CN 414
Trenton, New Jersey 08625-0414

(g) The Department shall charge fees for regulated medical waste program services as follows:

1. Any person not registered for regulated medical waste activities in accordance with the requirements of this subchapter that requests a written interpretation of any solid waste regulation from the Department shall submit a fee of \$150.00 with the request for interpretation.

2. Any person that requests the authorization of an alternative or innovative technology pursuant to N.J.A.C. 7:26-3A.47(a) shall submit a fee of \$1,500 with the request for the authorization; and

3. Any person that requests the authorization of an alternative or innovative technology demonstration program pursuant to N.J.A.C. 7:26-3A.47(c) shall submit a fee of \$2,000 with the request for authorization of the demonstration program.

(h) The omission of any type of Department service from the fee schedule set forth in (f) above shall not prevent the Department from assessing a reasonable fee for such service. Any person that requests a Department service not

listed at (f) above shall request an initial review of the service for purposes of determining the fee for performing such service.

1. If the Department determines that the service is of a type listed in (g)1 through 3 above, the fee shall be the applicable fee specified at (g) above.

2. If the Department determines that the service is not one of those listed in (g)1 through 3 above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate of \$74.73.

(i) The Department shall charge an excess fee at the hourly rate of \$55.88 for excess person-hours required to perform any service for which a fee is established pursuant to (a) through (g) above. The Department shall notify the applicant or permittee of such excess fee in writing before performing the additional work.

(j) The determination of a fee pursuant to (h) above shall expire 90 days after the date such determination was issued, unless the applicant or permittee has paid such fee to the Department in full before expiration. If the applicant or permittee desires to continue to pursue the request for services for which the fee determination has expired, such applicant or permittee shall request a redetermination of the fee in writing, and the Department shall redetermine the fee in accordance with (h) above, as applicable.

(k) The Department may refrain from commencing work on the service for which a fee is established pursuant to (g) through (i) above until the Department receives full payment of such fee. If the Department has commenced work on the service the Department may suspend such work until it receives full payment of such fee.

(l) Any generator that fails to register pursuant to this section and that submits the annual fee pursuant to (a) above later than August 20 of each calendar year shall pay a late fee in the amount of 25 percent of the annual fee up to 15 days, 50 percent up to six months, and 100 percent up to one year, in addition to the annual fee. Neither the assessment of a late fee nor the payment of a late fee shall prevent the Department from taking any appropriate enforcement action.

(m) Any generator that submits the annual generator report required by N.J.A.C. 7:26-3A.21(d), 30 or more days after such report is due shall pay a late fee of \$50.00. Neither the assessment nor the payment of a late fee shall prevent the Department from taking any appropriate enforcement action.

Amended by R.1990 d.358, effective July 16, 1990.

See: 22 N.J.R. 1478(a), 22 N.J.R. 2145(a).

Generator categories expanded to 5; fees restructured.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a)1, amended base fees; in (a)1i, inserted "annual" preceding "regulated medical waste" and inserted reference to discharged fluids and blood; substantially amended (b) and (c), inserted new (d); recodified former (d) as (f); in (f), inserted references to collection facilities and transfer stations, and to refunds for prior years; in (f)2, deleted reference to 1989 registration year; rewrote (e) and (g) through (h); and added (i) through (m).

7:26-3A.9 Education

The supervisory personnel of all transporters, except generators that transport their own regulated medical waste and satisfy the requirements of N.J.A.C. 7:26-3A.17(a), collection facilities, intermediate handlers and destination facilities shall attend education and training sessions provided by the Department, and shall also be required to disseminate the information obtained at the sessions to all employees.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Inserted reference to collection facilities.

7:26-3A.10 Segregation requirements

(a) Generators shall segregate regulated medical waste intended for transport off-site to the extent practicable prior to placement in containers according to (b) below.

(b) Generators shall segregate regulated medical waste into:

1. Sharps (Classes 4 and 7 as defined at N.J.A.C. 7:26-3A.6(a)) including sharps containing residual fluid;
2. Fluids (quantities greater than 20 cubic centimeters); and
3. Other regulated medical waste.

(c) Other regulated medical waste described at (b)3 above may be included in sharps containers. Such containers shall be managed at all times as sharps containers in accordance with N.J.A.C. 7:26-3A.11. The waste in these containers shall not be allowed to putrefy or be malodorous in any detectable manner.

(d) If other nonregulated medical waste and/or solid waste is placed in the same container(s) as regulated medical waste, or if regulated medical waste cannot be initially segregated from other solid waste, then the generator shall package, label, and mark the container(s) and manage its entire contents according to the requirements for regulated medical waste in this subchapter.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Inserted new (c) and recodified former (c) as (d) and substantially amended.

7:26-3A.11 Packaging requirements

(a) Generators shall ensure that all of their regulated medical waste is packaged in accordance with the requirements of (b) through (d) below, before transporting or offering such regulated medical waste for transport off-site. Generators may use one or more containers to meet these requirements for regulated medical waste packaging.

(b) Generators shall ensure that all regulated medical waste is placed in a container or containers that are:

1. Rigid;
2. Leak-resistant;
3. Impervious to moisture;
4. Sufficiently strong to prevent tearing or bursting under normal conditions of use and handling; and
5. Sealed to prevent leakage during transport.

(c) In addition to the requirements above, generators shall:

1. Package sharps and sharps with residual fluids in packaging or containers that are puncture-resistant; and
2. Package fluids (quantities greater than 20 cubic centimeters) in packaging or containers that are break-resistant and tightly lidded or stoppered.

(d) Generators need not place oversized regulated medical waste in containers. Generators shall note any special handling instructions for these items in Box 14 of the medical waste tracking form.

(e) Solid waste that is not being managed as regulated medical waste shall not be packaged for shipment inside a regulated medical waste container or in containers attached to, or part of, a regulated medical waste container.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (c)1 and (c)2, inserted reference to containers; and added (e).

Case Notes

Fact issue: cleaning employee's fear that she would develop acquired immune deficiency syndrome (AIDS) after she was pricked by lancet while cleaning medical office precluded summary judgment in action for negligent infliction of emotional distress; it could not be said as matter of law that person who receives puncture wound from medical waste reacts unreasonably in suffering serious psychic injury from fear of AIDS. *Williamson v. Waldman*, 291 N.J.Super. 600, 677 A.2d 1179 (A.D.1996).

7:26-3A.12 Storage of regulated medical waste prior to transport, treatment, destruction, or disposal

(a) Any person who stores regulated medical waste prior to treatment or disposal on-site (for example, interment, treatment and destruction, or incineration), or transport off-site, shall comply with the following storage requirements:

1. Store the regulated medical waste in a manner and location that maintains the integrity of the packaging and provides protection from water, rain and wind;
2. Maintain the regulated medical waste in a nonputrescent state, using refrigeration when necessary;

1. The intermediate handler or destination facility listed on the tracking form; or
2. The next transporter.

(b) If the regulated medical waste cannot be delivered in accordance with (a) above, the transporter shall contact the generator for further directions, revise the tracking form according to the generator's instructions, and deliver the entire quantity of regulated medical waste from that generator according to the generator instructions.

(c) Notwithstanding (b) above, a transporter may deliver all or a portion of the regulated medical waste, in unopened containers, to a destination facility other than the destination facility designated on the generator's tracking form, if the generator in writing consents to the use of such specific alternative destination facility prior to the transfer of regulated medical waste from the generator to the transporter. The transporter shall enter the required information in Box 14 of the tracking form and shall comply with all other tracking form requirements of N.J.A.C. 7:26-3A.31.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), added reference to (c); and added (c).

7:26-3A.33 Transporters consolidating waste to a new tracking form

(a) A transporter that chooses to consolidate to a single tracking form shipments of regulated medical waste shall:

1. Enter the new consolidation tracking form number in Box 21 on the original generator's tracking form;
2. Enter the consolidating transporter's identification data as the generator of the consolidation tracking form in Boxes 1 through 4 of the consolidation tracking form;
3. Complete Boxes 5 through 14 of the consolidation tracking form.
 - i. Enter the tracking form number of the original generator's tracking form in Box 14 of the consolidation tracking form. If more than 20 tracking forms are being consolidated, reference shall be made in Box 14 to the consolidation log pursuant to (b) below and enter the total number of tracking forms being consolidated.
4. Sign Box 15 of the consolidation tracking form; and
5. Comply with N.J.A.C. 7:26-3A.31 through 3A.33, as applicable, to complete the remainder of the consolidation tracking form.

(b) When the transporter receives the signed tracking form that the transporter initiated by consolidating shipments of regulated medical waste back from the destination facility, the transporter shall:

1. Attach a copy of the tracking form signed by the destination facility to the generator's original tracking form;

2. Retain a copy of each tracking form in accordance with N.J.A.C. 7:26-3A.34;

3. Return a copy of each tracking form to the generator within 15 days of receipt of the tracking form from the destination facility; and

4. Maintain a transporter consolidation log on forms supplied by the Department indicating all shipments consolidated on that form. The transporter consolidation log must accompany the tracking form and shall include the following information:

- i. The name of each generator;
- ii. The generator's address or if the regulated medical waste was generated in another state which issues a permit or identification number, then use that permit or identification number and, if the generator's state does not issue permit or identification numbers, then use the generator's address;
- iii. The date the regulated medical waste was originally shipped by the generator;
- iv. The quantity in pounds of regulated medical waste (number of containers and/or weight in pounds) by waste category (i.e., "untreated" or "treated") shipped by each generator; and
- v. The names, NJDEP registration numbers of all previous transporters or, if the transporters do not transport in New Jersey, then use the permit or identification number issued by the state in which the transporter is registered, and if the state does not issue permits or identification numbers, use the transporters' addresses.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added (a)1 through (a)5; in (b), inserted reference to transporter; and in (b)4, inserted text "on forms supplied by the Department".

7:26-3A.34 Recordkeeping for transporters of regulated medical waste

(a) A transporter of regulated medical waste shall keep a copy of the tracking form signed by the generator, himself, the previous transporter (if applicable), and the next party, which may be one of the following: another transporter; or the owner or operator of an intermediate handling facility or destination facility. The transporter shall retain a copy of this form for a period of three years from the date the waste was accepted by the next party unless the Department specifically requires an additional retention period.

(b) For any regulated medical waste received by the transporter and consolidated by the transporter to another tracking form, the transporter shall:

1. Retain "Copy 3—Transporter Copy" of the tracking form signed by the transporter for three years from the date the waste was accepted by the transporter unless the Department specifically requires an additional retention period; and

2. Retain "Copy 3—Transporter Copy" of the transporter initiated tracking form signed by the intermediate handler or destination facility and all consolidation logs required by N.J.A.C. 7:26-3A.33(b)4 for three years from the date the waste was accepted by the intermediate handler or destination facility unless the Department specifically requires an additional retention period.

(c) Transporters shall retain a copy of each regulated medical waste transporter report required by N.J.A.C. 7:26-3A.35 for three years after the date of submission unless the Department specifically requires an additional retention period.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (b)1, amended form reference; in (b)2, amended form reference and inserted reference to consolidation logs.

7:26-3A.35 Transporter reporting

(a) A transporter who accepts regulated medical waste which is generated in New Jersey or that is to be stored, transferred, treated, destroyed, disposed of, or otherwise managed in New Jersey shall submit a regulated medical waste transporter report to the Department describing the source and disposition of the waste. The regulated medical waste transporter reports shall be submitted on forms available from the Department and sent to the address listed at N.J.A.C. 7:26-3A.8(d).

(b) Each regulated medical waste transporter report shall include, but not be limited to, the following information:

1. The transporter's name, address, and NJDEP solid waste transporter registration number or if the transporter does not transport in New Jersey, then use the permit or identification number issued of the state in which the transporter is registered;

2. The name and telephone number of a contact person;

3. The total number of generators from whom the transporter accepted regulated medical waste;

4. The name, address, and type of each generator (for example, hospital, doctor) from whom the transporter accepted regulated medical waste;

5. The amount by weight in pounds and waste category (untreated or treated) of regulated medical waste accepted from each generator;

6. The total, by weight in pounds and by waste category, of regulated medical waste from all generators in New Jersey, or from all generators in another state that the transporter delivered to an intermediate handler or to a destination facility,

7. The total, by weight in pounds and by waste category, of regulated medical waste from all generators in New Jersey or from all generators in another state that the transporter delivered to a second transporter or to a transfer facility; and

8. The certification of the transporter report signed by the owner or operator, or his authorized representative.

(c) Transporters who transport or deliver regulated medical waste to an intermediate handler or to a destination facility shall also provide the following information:

1. The name and address of each intermediate handler and destination facility to which the waste was delivered;

2. The amount in pounds, by waste category, that was delivered;

3. The total number of intermediate handlers and destination facilities to which waste was delivered.

(d) The transporter shall submit an annual regulated medical waste transporter report to the Department which shall cover the period from July 1 through June 30 and shall be due on or before July 30 of each calendar year.

(e) Each transporter who initiates a tracking form shall meet the requirements of N.J.A.C. 7:26-3A.22, exception reporting, except that the 35 and 45 day periods begin on the day the transporter accepted the waste from the generator.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Deleted (b) and (c), recodified former (d) through (g) as (b) through (e); in (b)1, deleted reference to EPA medical waste ID number; in (b)6 and (b)7, reference was to generators in states "participating in Federal demonstration program"; and in (d), amended from specified reporting periods to an annual report.

7:26-3A.36 Additional reporting for transporters of regulated medical waste

The Department and the Administrator may require transporters to furnish additional information concerning the quantities and management methods of regulated medical waste as he or she deems necessary under RCRA Section 11004 and as the Department may deem necessary under N.J.S.A. 13:1D-9.

7:26-3A.37 Transporter management of spills

(a) All transporters shall develop and implement a Spill Management Plan to govern the management and decontamination of regulated medical waste spills. The Spill Management Plan shall be submitted to and approved by the Department.

1. This section shall not apply to transporters that are generators of less than 50 pounds of regulated medical waste per month and that transport RMW pursuant to N.J.A.C. 7:26-3A.17(a).

(b) All transporters shall maintain at each site and in each vehicle used to transport regulated medical waste a copy of the Spill Management Plan and appropriate equipment and supplies for cleaning up a spill of regulated medical waste, including but not limited to, the following:

1. A spill containment and cleanup kit in each area utilized for the collection, transfer, storage, treatment, packaging or other such handling of regulated medical waste. All vehicles operating under a New Jersey regulated medical waste transporter registration, or any out-of-State transporter transporting regulated medical waste through New Jersey in accordance with N.J.A.C. 7:26-3A.27(g), shall carry a spill containment and cleanup kit in the vehicle whenever regulated medical waste is transported. Personnel shall be trained in the use of the kit. The kit shall contain, at a minimum, the following:

i. Absorbent material for spilled liquids. The absorbent material shall have a rated capacity of one gallon of liquid for every cubic foot of regulated medical waste that is usually managed in the area for which the kit is provided or 10 gallons, whichever is less.

ii. One gallon of disinfectant in a sprayer capable of dispersing its charge in a mist and in a stream. The disinfectant shall be of hospital grade and of a formulation described in (c) below and be effective against mycobacteria.

iii. Fifty plastic bags that meet the requirements of N.J.A.C. 7:26-3A.11(b)2, 3 and 4 along with sealing tape (or devices for sealing), and appropriate labels as required by N.J.A.C. 7:26-3A.14. The plastic bags shall be large enough to overpack any box or other container usually used by the customers of the transporter for regulated medical waste packaging;

iv. Two sets of overalls, gloves, boots, caps, protective eye covering, and protective breathing devices all of which must be disposable and impermeable to liquids. Overalls, boots and caps shall be oversized or fitted to medical waste handlers and be made of a moisture resistant or moisture-proof material. When sharps are known not to be present, gloves for handling regulated medical waste shall be durable and moisture resistant or moisture proof. When sharps are known to be present or may be present, gloves for handling such waste shall be puncture resistant or puncture proof in addition to being moisture resistant. Boots shall be of durable moisture resistant or moisture proof material that does not tear under the stress of walking. At a minimum, protective breathing devices shall include surgical masks. The kit shall also contain tape for sealing wrists and ankles of the protective overalls;

v. Scoops, shovels, push brooms, and buckets;

vi. A first-aid kit, boundary marking tape, fire extinguisher, lights, and other appropriate safety equipment;

vii. A suitable means of communication for summoning aid in an emergency, and

viii. A copy of the approved Spill Management Plan as described at (a) above.

(c) Disinfection and routine decontamination procedures for soiled surfaces include, but are not limited to, the following:

1. Exposure to hot water of at least 82 degrees Celcius (180 degrees Fahrenheit) for a minimum of 15 seconds; or

2. Exposure to a chemical sanitizer by rinsing with or immersion in a chemical disinfectant. Such disinfectants shall be registered with the USEPA as hospital disinfectants that are tuberculocidal, fungicidal, virucidal and effective against HIV-1. Also approved for this specific purpose as a disinfectant is ten percent volume/volume of sodium hypochlorite and water.

(d) In case of any spill of any regulated medical waste, the transporter shall immediately take steps to contain and clean up the regulated medical waste in accordance with the procedures specified in the Spill Management Plan.

1. The spill of any medical waste by a transporter shall be immediately reported by the transporter or its designee to the DEP Emergency Response 24-hour Hotline at (609)292-7172.

2. The transporter shall submit a written accident report to the Department within 48 hours of the occurrence of any spill of regulated medical waste on an accident report form provided by the Department. A copy of the report shall be kept on file for a minimum of three years from the date of submission in the same location as the registration certificate. The record retention period shall be extended during the course of any unresolved litigation, or when otherwise required by the Department.

New Rule, R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Former section, "Temporary authorization to operate a regulated medical waste incinerator", was recodified to N.J.A.C. 7:26-3A.38.

7:26-3A.38 Temporary authorization to operate a regulated medical waste incinerator

(a) This section applies only to and sets forth requirements for an authorization to operate an incinerator that accepts regulated medical waste for disposal.

(b) Notwithstanding the requirements of N.J.A.C. 7:26-2 and 2B, but subject to the requirements of N.J.A.C. 7:26-16, the owner or operator of an incinerator shall be authorized to operate that incinerator if the following requirements are met:

1. The owner or operator shall submit documentation as submitted to the Department demonstrating that the incinerator was in operation accepting regulated medical waste for disposal on or before March 6, 1989;

2. The owner or operator of the disposal facility continues to accept regulated medical waste for disposal;

3. The owner or operator registers and pays fees as a regulated medical waste destination facility in accordance with N.J.A.C. 7:26-3A.8;

4. The owner or operator of the facility shall have a current certificate to operate control apparatus or equipment pursuant to N.J.A.C. 7:27;

5. The owner or operator shall be or is fully permitted pursuant to N.J.A.C. 7:26-2 and 2B prior to expiration of the facility's current certificate to operate control apparatus or equipment issued pursuant to N.J.A.C. 7:27. For the purposes of the temporary authorization, any application for a renewal or extension of the current certificate shall be considered an expiration of the current certificate;

6. No waste shall be stored overnight at any facility without effective treatment to prevent odors associated with putrefaction;

7. Facility property surrounding the actual disposal area shall be maintained free of litter, debris, and accumulations of unprocessed waste, process residues and effluents. Methods of effectively controlling windblown papers and other lightweight materials such as fencing shall be implemented;

8. The operation of the facility shall not result in odors associated with solid waste being detected off site in any area of human occupancy;

9. The owner or operator shall maintain all facility systems and related appurtenances in a manner that facilitates proper operation and minimizes system downtime. When requested, the operator of the facility shall furnish proof that provisions have been made for the repair and replacement of equipment which becomes inoperative;

10. An adequate water supply and adequate fire-fighting equipment shall be maintained at the facility or be readily available to extinguish any and all types of fires. Fire-fighting procedures, including the telephone numbers of the local fire, police, ambulance and hospital facilities, shall be posted in and around the facility at all times;

11. The owner or operator shall effectively control insects, other arthropods and rodents at the facility by means of a program in compliance with the requirements of the New Jersey Pesticide Control Code, N.J.A.C. 7:30, and implemented by an applicator of pesticides, certified in accordance with the New Jersey Pesticide Control Code, N.J.A.C. 7:30;

12. The facility owner or operator shall be responsible for the sanitary condition and orderly operation of the area;

13. The Departments' inspectors shall have the right to enter and inspect any building or other portion of the facility, at any time. This right to inspect includes, but is not limited to:

i. Sampling any materials on site;

ii. Photographing any portion of the facility;

iii. Investigating an actual or suspected source of pollution of the environment;

iv. Ascertaining compliance or non-compliance with the statutes, rules or regulations of the Department, including conditions of the facility's authorization or permit issued by the Department; or

v. Reviewing and copying all applicable records, which shall be furnished upon request and made available at all reasonable times for inspection.

14. An operation and maintenance manual meeting the requirements of N.J.A.C. 7:26-2B.4(a)17 through 20 shall be maintained at the facility;

15. The owner or operator shall obtain or has obtained all applicable permits and approvals required by Federal, State, county and local ordinance;

16. The facility shall not pose a threat to the public health, safety or the environment; and

17. The facility shall only accept regulated medical waste from transporters who have NJDEP registration numbers and who have a certificate of public convenience and necessity issued by the Department, unless the transporter is exempt from these requirements pursuant to N.J.A.C. 7:26-3A.17(a) or unless the transporter is the U.S. Postal Service and the generator who has shipped the waste has complied with N.J.A.C. 7:26-3A.17(b).

Recodified from 7:26-3A.37 and amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Former section, "Intermediate handlers and destination facilities", was recodified to N.J.A.C. 7:26-3A.40. In (b)17, deleted reference to EPA.

7:26-3A.39 Collection facilities for medical wastes

(a) This section contains the regulations of the Department governing the authorization and operation of noncommercial and commercial collection facilities for regulated medical waste. Such facilities shall accept and handle only medical waste and regulated medical waste as defined at N.J.A.C. 7:26-3A.5. Such facilities shall not accept or handle solid waste as defined at N.J.A.C. 7:26-1.4 and 1.6 other than medical waste and regulated medical waste, hazardous waste as defined at N.J.A.C. 7:26G, or recyclable material as defined at N.J.A.C. 7:26A-1.3.

(b) Any registered regulated medical waste generator that conducts activities as a collection facility and that generates regulated medical waste in the ordinary course of business at the same site, such as a doctor or hospital, that operates on a noncommercial basis and accepts only medical wastes from other generators registered pursuant to N.J.A.C. 7:26-3A.8 and home self-care medical wastes in accordance with N.J.A.C. 7:26-3A.16(h) for collection for transportation off-site for treatment and/or disposal in accordance with this subchapter shall operate as a noncommercial collection facility and shall comply with the requirements at (b)1 through 3 below and at (i) and (k)4 below.

1. Noncommercial collection facilities are exempt from registration as regulated medical waste transporters pursuant to N.J.A.C. 7:26-3A.8 provided they are operated in compliance with N.J.A.C. 7:26-3A.27(e).

2. Noncommercial collection facilities shall comply with the standards for the operation of collection facilities at (i) below.

3. The boundaries of noncommercial collection facilities shall be limited to the site for which the owner and/or operator of the facility is registered as a regulated medical waste generator pursuant to N.J.A.C. 7:26-3A.8 or as an exempted transporter pursuant to N.J.A.C. 7:26-3A.27(e), including buildings on the site and vehicles registered pursuant to N.J.A.C. 7:26-3, 3A, 16 and 16A at the site for the purpose of transporting medical wastes.

(c) Any collection facility that does not meet the criteria in (b) above as a noncommercial collection facility shall obtain authorization as a commercial collection facility pursuant to (d) below and shall operate in accordance with the requirements of this section.

(d) A person registered and licensed pursuant to this subchapter and N.J.A.C. 7:26-3, 16, and 16A to transport regulated medical waste in the State of New Jersey that seeks to operate a commercial collection facility for medical waste shall submit an application containing the information listed at (d)1 through 15 below. All maps of the proposed facility shall be prepared in a manner and format consistent with N.J.A.C. 7:1E, Appendix C. Three copies of the application and all accompanying documents shall be submitted to the Department at the address specified in (e) below, and one copy each to the host municipality and district solid waste management plan implementation agency:

1. The name, address and telephone number of the person or persons seeking to operate the proposed commercial collection facility;

2. A photocopy of the applicant's authorized registration as a regulated medical waste transporter obtained pursuant to N.J.A.C. 7:26-3, 3A, 16 and 16A;

3. Photocopies of all authorizations for siting, construction and operation obtained pursuant to applicable local,

regional, State or Federal agency with jurisdiction over any aspect of the proposed facility;

4. A copy of the tax map showing the lot and block numbers of the facility site and of all adjoining properties;

5. A description of the current use of the facility site and of all adjoining properties;

6. Documentation establishing that the facility has been included in the applicable district solid waste management plan. The Department may issue an authorization in the absence of a letter of consistency if it determines that the collection facility is needed to help fulfill the objectives of the adopted and approved Statewide Regulated Medical Waste Management Plan or any individual district regulated medical waste management plan. The Department shall notify the host county and municipality of such a determination and the reasons justifying facility authorization in writing prior to any approval of operations;

7. A description of the maximum amount and types of waste to be received and transferred at the facility each day, expressed in tons or gallons per day, as applicable;

8. A description of the sources of the waste and the anticipated disposal locations of the waste, both in State and out of State;

9. A description of the type(s) and number of containers that will be used at the facility and the type and means of storage and staging of the containers;

10. Three copies of a site plan, prepared, signed, and sealed by a licensed New Jersey professional engineer, surveyor or architect. The site plan shall:

i. Identify the placement of all equipment, buildings, activities and areas related to the receipt, loading, unloading and temporary storage of regulated medical waste;

ii. Be drawn to a scale no greater than one inch equals 100 feet;

iii. Indicate the routing of vehicles between the facility and all nearby roadways serving the site, as well as the traffic flow within the site. Such routing must ensure safe and efficient vehicular and pedestrian circulation, parking, and loading and unloading of packages of regulated medical waste;

iv. Delineate floodplains as defined at N.J.A.C. 7:13;

v. Delineate the location of State-designated wetlands, New Jersey Pinelands, existing or suitable agricultural lands, Federal or New Jersey-registered historic sites and other environmentally sensitive areas such as State parks, wildlife management areas and National Wildlife Refuges;

vi. Identify the direction of water runoff both on-site and off-site and the screening and landscaping on the site;

vii. Indicate topographic contours, drawn at three-foot intervals; and

viii. Indicate all site access controls to be employed at the facility;

11. An original current 7.5 minute USGS Quadrangle map with the boundary of the facility plotted thereon. The map shall delineate any public access roads to the site and any streams, ponds or other potential sensitive receptors such as, but not limited to, hospitals, schools, and shopping areas within a one-half mile radius of the site;

12. A copy of the deed of record establishing ownership of the facility property or, if the applicant is a person other than the landowner, a legal agreement (for example, a lease) to use the real property for the purpose of operating the facility;

13. A description of the design capacity of the facility, setting forth the number and types of all vehicles arriving at the facility and the number and types of all vehicles leaving the facility on a daily basis, stating the maximum number of vehicles per hour that will arrive at and leave the facility;

14. A copy of any New Jersey air pollution control permit application as applicable, in accordance with N.J.A.C. 7:27; and

15. A narrative describing the facility operations from the receipt of waste through the point of transfer to destination. The narrative must clearly demonstrate that packages and containers will not be opened and that employees, the public or the environment will not be exposed to regulated medical waste or medical waste.

(e) The application described in (d) above shall be submitted in triplicate, along with the application fee set forth in N.J.A.C. 7:26-3A.8, to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Resource Recovery and Technical Programs
PO Box 414
Trenton, New Jersey 08625-0414

(f) Within 45 days after the Department receives the application submitted pursuant to (d) above, the Department shall take one of the following actions:

1. Issue a letter of authorization to operate the commercial collection facility, or a denial of the application, to the applicant and provide a copy of the letter of authorization or denial to the host municipality and district solid waste management plan implementation agency. A letter of authorization shall not be transferred to any other person;

2. Notify the applicant in writing of missing information and provide a copy of the letter of deficiency to the host municipality and district solid waste management plan implementation agency; or

3. Notify the applicant in writing of any information that does not satisfy the requirements of (d) above and provide a copy of the letter of deficiency to the host municipality and district solid waste management plan implementation agency.

(g) An applicant shall submit to the Department and to the host municipality and district solid waste management plan implementation agency any additional or corrected information required pursuant to (f)2 or 3 above within 30 days of receipt of the notification from the Department of missing and/or insufficient information.

(h) The Department shall deny without prejudice the application of any applicant that fails to submit the additional or corrected information required pursuant to (f)2 or 3 above or that otherwise fails to meet the application criteria of this section. The applicant may thereafter submit a new application for authorization to operate a commercial collection facility at the same location pursuant to the requirements of this section.

(i) The operating standards for collection facilities are as follows:

1. The maximum amount of regulated medical wastes at a collection facility including regulated medical wastes in any vehicles staged at the facility shall not exceed 300,000 pounds at any time unless a higher amount is specified in the facility's letter of authorization.

2. Collection facilities shall not receive medical wastes in excess of 150,000 pounds per day unless a higher amount is specified in the facility's letter of authorization.

3. Collection facility operators shall comply with all requirements for transporters at N.J.A.C. 7:26-3A.27 through 3A.37.

4. Collection facilities shall accept only regulated medical waste managed in accordance with this subchapter.

5. Collection facilities shall allow only collection and transportation vehicles registered in accordance with this subchapter and N.J.A.C. 7:26-2, 16, 16A and 27, and operated in accordance with N.J.A.C. 7:26-3 and this subchapter to transport regulated medical waste to and from the facility.

6. Regulated medical waste received, stored or transferred at any collection facility shall at all times remain fully contained in sealed packages and containers packaged, marked and labeled pursuant to this subchapter that do not leak any liquids or solid materials, are not opened for any purpose at the facility and are registered as solid waste containers pursuant to N.J.A.C. 7:26-3. Secondary outer packaging or containers may be removed so long as the primary packaging that contains the regulated medical waste and meets the performance requirements for packaging at N.J.A.C. 7:26-3A.11 is not opened, ruptured or compromised in any way.

7. Regulated medical waste shall not remain at a non-commercial collection facility for more than 90 consecutive calendar days, which period shall include weekends and holidays. A noncommercial collection facility at which waste is staged or stored for more than 90 days shall be deemed to be an illegal solid waste transfer station, and shall be subject to all penalties authorized pursuant to applicable statutes and rules.

8. Unless exempted under N.J.A.C. 7:26-6.3, all regulated medical waste accepted at a collection facility from New Jersey sources shall be disposed of in accordance with the applicable District Solid Waste Management Plan developed pursuant to N.J.A.C. 7:26-6. A collection facility shall not accept packages or containers in which regulated medical waste generated from more than one New Jersey district or county, or out-of-State source, has been mixed. Any out-of-State waste accepted at a collection facility shall be disposed of consistent with the provisions set forth in the approved District Solid Waste Management Plan for the district in which the facility is located, or at permitted out-of-State disposal facilities authorized by the receiving state.

9. Regulated medical waste at any collection facility shall not emit odors that are detectable at the facility or in the vicinity of the facility. Any waste that does emit any odor shall be immediately disposed of in accordance with this subchapter.

10. Access to any collection facility shall be restricted to facility operators, regulated medical waste vehicle operators and authorized visitors only. Effective security procedures shall be implemented to control entry and exit at all times. All regulated medical waste packages and containers staged or stored at the facility shall be secured at all times in a manner that prevents unauthorized access to the packages and containers and their contents.

11. The Department's designated representatives and inspectors shall have the right to enter and inspect any building or any other portion of any collection facility, including vehicles, at any time. This right to enter and inspect includes, but is not limited to:

- i. Observing and sampling any wastes or other materials on site;
- ii. Photographing any portion of the facility, regulated medical waste vehicles, regulated medical waste packages and containers;
- iii. Investigating an actual or suspected source of pollution of the environment or any release of regulated medical waste;
- iv. Ascertaining compliance or noncompliance with the statutes, rules, regulations, or policies of the Department, including conditions of the facility's letter of authorization or any other permit or certificate issued by the Department; and

v. Reviewing and copying all applicable records described in this section, which shall be maintained at the facility at all times and shall be made available on request to Department representatives and inspectors at all reasonable times for review and inspection.

12. Collection facilities shall comply with the requirements of the Federal Occupational Safety and Health Administration and all other applicable standards of any agency for the operation of the facility and the maintenance of the health and safety of the employees and other persons.

13. Routine housekeeping and maintenance procedures shall be implemented at the facility to prevent the accumulation of dust and/or debris and to maintain general cleanliness throughout the facility and in the working environment.

14. Any areas or surfaces at a commercial collection facility that have come into contact with regulated medical waste shall be disinfected immediately in accordance with the Spill Management Plan approved pursuant to N.J.A.C. 7:26-3A.37.

15. Any release or discharge of any regulated medical waste at a collection facility shall be immediately reported by the facility operator or its designee to the DEP Emergency Response 24-hour Hotline at (609)292-7172. This telephone report shall specify the type of waste or substance discharged in estimated quantity, the nature of the discharge, the location of the discharge, any action being taken or proposed to be taken in order to mitigate the discharge, and any other information concerning the incident the Department may request at the time of notification. In addition, the facility operator or emergency coordinator designated pursuant to (j) below shall:

- i. Immediately identify the character, source, amount, and extent of any discharge and notify all appropriate State or local agencies with designated response roles if assistance is needed;
- ii. Assess possible hazards to public health or the environment that may result and notify appropriate local authorities if such assessment indicates that evacuation of local areas may be advisable;
- iii. Ensure that no regulated medical waste is processed in the affected unit and area until cleanup procedures are completed and all equipment is again fit for its intended use;
- iv. Notify the Department and appropriate local authorities when operations have returned to normal; and
- v. Submit a written report on the incident to the Department within 15 days after the incident. The written report shall include, but not be limited to, the name, address, and telephone number of the facility; the date, time, and description of the incident; the extent of any injuries of any severity, with names and job responsibilities of those persons injured indicated;

an assessment of actual damage to the environment; an assessment of the scope and magnitude of the incident; a description of the immediate actions initiated to clean up and disinfect the affected area; a description of actions taken to prevent a recurrence of a similar incident and, an implementation schedule for undertaking long-term measures to effect cleanup and avoid recurrence of the incident, if applicable.

16. Deliveries of regulated medical waste to collection facilities shall be scheduled in such a manner as to minimize truck queuing on the facility property as well as on the street or road leading to the entrance. On-site traffic control measures shall be implemented to provide orderly vehicle movement at collection facilities. If, at any time, the additional traffic generated by the operation of the facility results in congestion of surrounding roads and intersections, corrective measures shall be developed and implemented immediately to alleviate traffic-related problems.

17. No regulated medical waste or medical waste shall be staged, placed or stored beyond the confines of a building at the collection facility or a regulated medical waste vehicle registered pursuant to this subchapter, N.J.A.C. 7:26-3, 16 or 16A.

18. Collection facilities shall pay all fees and register in accordance with all applicable regulations for any other waste management activities conducted at the facility, in addition to the complying with the requirements of this subchapter.

(j) Additional operating requirements for commercial collection facilities are as follows:

1. The commercial collection facility operator shall designate an on-site emergency coordinator who is available during all hours of operation for the purpose of handling emergency situations such as, but not limited to, spills, discharges or releases of medical wastes at the facility.

2. The commercial collection facility operator shall develop and maintain at the site an operations and maintenance (O&M) manual that shall describe all operating conditions and procedures of the facility. The O&M manual shall be made available to all facility personnel. The O&M manual shall be prepared in accordance with N.J.A.C. 7:26-2.10(b)9.

3. All personnel directly involved in any commercial collection facility waste management activities or who operate, service or monitor any facility equipment, machinery or system at the facility shall successfully complete a training program of classroom instruction, which shall be combined with on-the-job training as needed. The training program shall:

i. Provide fire fighting training, instructions for implementing the Spill Management Plan in accordance with N.J.A.C. 7:26-3A.37 and ensure that facility personnel are able to effectively respond to any equipment malfunction and emergency situation that may arise;

ii. Provide instructions in the use and operation of safety equipment, procedures for inspecting, maintaining and repairing facility equipment, machinery and monitoring systems and the procedures to be followed during planned and unplanned shutdown of operations;

iii. Contain instructions that ensure the facility's compliance with the requirements of this chapter and the conditions of any Departmental letters of authorization and permits issued for the facility;

iv. Contain instruction for the constant monitoring of incoming loads for conformance with the requirements of this section and the identification and proper handling of suspected unauthorized wastes;

v. Be completed by all facility personnel within two weeks after the date of their employment and prior to work assignment at the facility;

vi. Be conducted on an annual basis for all facility personnel in the form of a planned annual review of the complete training program; and

vii. Be documented in the form of detailed training records that record the names of personnel trained, the dates when training occurred and the type and extent of training provided. The training documentation shall be maintained at the facility for three years from the date the training occurred.

4. Any commercial collection facility operator and any person designated by such operator to operate part or all of the collection facility or to conduct any of its waste-related activities shall be registered as a regulated medical waste transporter pursuant to N.J.A.C. 7:26-3A.3, 16 and 16A.

5. The commercial collection facility shall maintain sufficient staff to ensure the proper, orderly and safe operation of all facility systems and equipment, along with the ability to handle all routine facility maintenance requirements.

6. Fire detection and protection systems shall be maintained in operable condition at all times. Fire-fighting equipment shall be available on-site or on call to extinguish any and all fires. Fire fighting procedures shall be posted in each area of the facility and shall include the telephone number of local fire and police departments.

7. Noise control shall be implemented to ensure that sound levels generated by the facility operation, including vehicles, shall not exceed the standards set forth in Noise Control rules at N.J.A.C. 7:29.

8. One complete set of the commercial collection facility's operating records, the O&M manual and these rules shall be kept on file at the facility, and shall be available to facility personnel and for inspection by the Department or its designated representatives.

9. The commercial collection facility's material management system's safety appliances and related appurtenances shall, at all times, be kept in the proper operating order through an effective inspection, planned maintenance, repair and parts replacement program as described in the O&M manual. As part of this program, the facility operator shall maintain an inventory of spare parts and replacement equipment, records of all inspections, as well as have access to back up equipment to ensure continued operation of the facility.

10. Regulated medical waste shall not remain at a commercial collection facility for more than 14 consecutive calendar days, which period shall include weekends and holidays. A commercial collection facility at which waste is staged or stored for more than 14 calendar days shall be deemed to be an illegal solid waste transfer station, and shall be subject to all penalties authorized pursuant to applicable statutes and rules.

(k) A collection facility operator shall maintain the following records at the facility at all times and shall file reports as follows. The operator shall retain records and reports for three years.

1. A commercial collection facility shall maintain daily records that shall note the source, destination and quantity, by vehicle, of all regulated medical waste received, transferred and shipped to and from the facility. The records shall specify the source for every shipment of regulated medical waste received and the destination of every shipment of regulated medical waste out of the facility. Quantities of regulated medical waste shall be listed in tons or gallons as appropriate.

i. The daily records shall be compiled into quarterly reports in accordance with N.J.A.C. 7:26-2.13 and shall be submitted to the following address within 20 days of the end of each calendar quarter:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Resource Recovery and Technical Programs
PO Box 414
Trenton, NJ 08625-0414

2. A commercial collection facility shall maintain records that document all violations of any local, State and Federal requirements, including violations of the collection facility authorization issued by the Department.

3. A commercial collection facility shall maintain records that document all incidents in which a transporter

not registered and licensed pursuant to this subchapter and N.J.A.C. 7:26-3, 16 and 16A, or a container not registered pursuant to N.J.A.C. 7:26-3, was denied transfer privileges at the facility. These records shall specify the vehicle driver's name, the vehicle license number, the vehicle registration number, the name of the company operating the vehicle, the solid waste registration number of the company, the date and time of the denial, the size of the vehicle or container, and the tracking form numbers for the waste in the container. These incidents shall also be reported within 24 hours to the Department's Bureau of Solid Waste Compliance and Enforcement or the Environmental Hotline at (609) 292-7172.

4. All collection facilities shall maintain records in accordance with N.J.A.C. 7:26-3A.34, 3A.43 and 3A.44, except that noncommercial facilities are not required to comply with N.J.A.C. 7:26-3A.44(a)1 and 2.

(l) Any person that conducts any of the activities of a commercial collection facility as defined in this section without authorization from the Department, or without a solid waste transfer station permit issued pursuant to N.J.A.C. 7:26-2A, shall be deemed to be operating an illegal solid waste facility and shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E, and N.J.A.C. 7:26-5.

(m) Any authorized commercial collection facility that accepts unauthorized waste, or fails to operate in compliance with the requirements of this section, shall be deemed an illegal solid waste facility and shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E, and N.J.A.C. 7:26-5.

(n) Any authorized commercial collection facility that accepts regulated medical waste from a transporter not registered and licensed pursuant to this subchapter and N.J.A.C. 7:26-3, 16 and 16A shall be subject to penalties for violation of New Jersey solid waste planning rules at N.J.A.C. 7:26-6, including, but not limited to, revocation of transporter registration, certification and licensing, and revocation of collection facility authorization.

(o) The Department may revoke the authorization of a commercial collection facility if that facility fails to comply with the requirements for such facilities or any law in any way related to the operation of a commercial collection facility pursuant to New Jersey statute or the Department determines that any of the causes for modification in (p) below are sufficient cause for revocation in order to protect human health, safety and the environment.

(p) The Department may modify a commercial collection facility authorization for the following reasons and the operator shall pay a fee as specified in N.J.A.C. 7:26-3A.8 on issuance of any commercial collection facility authorization modification:

1. The Department determines that there are material and significant alterations or additions to the authorized commercial collection facility or operation that occurred after Department issued the existing letter of authorization that warrant the imposition of conditions different from or lacking in the existing authorization;

2. The Department receives information that was not available at the time it issued the letter of authorization that would have warranted the issuance of conditions in the authorization different from those imposed in the existing authorization. This information may include, but is not limited to, information concerning the effects of the facility on the properties surrounding the facility or the effects of the facility on the environment;

3. A change in Federal or State laws, regulations or policies governing solid waste and/or regulated medical waste management;

4. The regulatory compliance record of the collection facility operator;

5. A relevant judicial decision after the authorization was issued; or

6. An operator of a commercial collection facility shall request a modification of its authorization whenever the operator proposes to change any aspect of the operation as originally described in the application. Such change include, but are not limited to, changes in the amount and type of regulated medical waste managed at the facility, and changes in the sources of regulated medical waste and changes in the regulated medical waste disposal location.

(q) The Department shall provide 30-day prior notice of a modification to an authorization to operate a commercial collection facility pursuant to (p) above and its reasons for determining a modification is warranted. This notice shall be sent to the operator of the facility and the host municipality and district solid waste management plan implementation agency.

New Rule, R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Former section, "Use of tracking form for intermediate handlers and destination facilities", was recodified to N.J.A.C. 7:26-3A.41.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted provisions of Emergency Amendment R.1997 d.404 without change.

Administrative change.

See: 30 N.J.R. 3948(a).

7:26-3A.40 Intermediate handlers and destination facilities

(a) N.J.A.C. 7:26-3A.40 through 3A.44 apply to owners and operators of intermediate handler or destination facilities located in New Jersey that manage regulated medical waste and owners and operators of facilities in another state that receive regulated medical waste generated in New Jersey. Facilities that are subject to the above sections include:

1. Destination facilities, including treatment and destruction facilities, facilities that cause the regulated medical waste to meet the conditions of N.J.A.C. 7:26-3A.6(b)3 or 4 including incineration facilities, alternative or innovative technology facilities and disposal facilities; and

2. Intermediate handlers, including alternative or innovative technology or other facilities that either treat or destroy the regulated medical waste, but do not cause it to meet the conditions of N.J.A.C. 7:26-3A.6(b)3 or 4.

(b) The rule paragraphs noted in (a) above also apply to generators with on-site incinerators who accept regulated medical waste for disposal.

(c) No person shall engage in the treatment and/or destruction of regulated medical waste in New Jersey unless such person:

1. Registers the site as an intermediate handler or destination facility in accordance with N.J.A.C. 7:26-3A.8;

2. Obtains a tariff in accordance with N.J.S.A. 13:1E-48.12.b if operating commercially;

3. Uses treatment and/or destruction process(es) authorized by the Department and DOH pursuant to N.J.A.C. 7:26-3A.47;

4. Obtains the specific approval of the Department and DOH to operate an alternative or innovative technology approved pursuant to N.J.A.C. 7:26-3A.47 for the treatment and/or destruction of regulated medical waste at the registered facility; and

5. Complies with all other environmental statutes applicable to the facility, including but not limited to, the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the rules and regulations adopted thereunder, and any permits or orders issued pursuant thereto.

Recodified from 7:26-3A.38 and amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), amended N.J.A.C. references and inserted reference to intermediate handlers and destination facilities; in (a)1 and (a)2, inserted reference to alternative or innovative technology facilities; and added (c). Former section, "Tracking form discrepancies for intermediate handlers and destination facilities", was recodified to N.J.A.C. 7:26-3A.42.

7:26-3A.41 Use of the tracking form for intermediate handlers and destination facilities

(a) The owner or operator of a destination facility when receiving a tracking form shall:

1. Sign and date each copy of the tracking form to certify that the regulated medical waste listed on the tracking form was received;

2. Note any discrepancies as defined in N.J.A.C. 7:26-3A.42(a) on the tracking form;

3. Immediately give the transporter "Copy 3—Transporter Copy" of the signed tracking form:

(c) Any fee under this subchapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

Amended by R.1974 d.234, effective August 21, 1974.

See: 6 N.J.R. 343(c).

Amended by R.1983 d.269, effective July 5, 1983.

See: 15 N.J.R. 662(a), 15 N.J.R. 1095(b).

Amended by R.1989 d.54, effective January 17, 1989.

See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Added text "of solid waste, excluding hazardous waste".

Repeal and New Rule, R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Amended by R.1995 d.205, effective April 17, 1995.

See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), inserted reference to thermal destruction facilities and composting facilities; and in (b), added last sentence.

Case Notes

Operator was liable for certain taxes and escrow accounts on solid waste disposed in its facilities under joint order issued by Department of Environmental Protection and Board of Public Utilities requiring landfill to remain open beyond intended closing date and requiring operator to extend credit to cash-based haulers in amount of rate increase. *Edgeboro Disposal, Inc. v. Division of Taxation*, 284 N.J.Super. 208, 664 A.2d 942 (A.D.1993).

Solid waste collector who failed to comply with terms of rate increase allowance; refund. In the Matter of the Petition of A. Fiore and Sons, Inc., 94 N.J.A.R.2d (EPE) 124.

7:26-4.2 Payment of fees

(a) Fees for activities related to solid waste transporters and facilities shall be paid by certified check or money order and made payable to "Treasurer, State of New Jersey" at the following address:

New Jersey Department of Environmental Protection
 Division of Solid and Hazardous Waste
 PO Box 414
 Trenton, NJ 08625-0414

(b) Engineering design fees and transporter registrations may be paid in person at the address set forth in (a) above.

Repeal and New Rule, R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Administrative change.

See: 30 N.J.R. 3948(a).

7:26-4.3 Fee schedule for solid waste facilities

(a) The fee schedule for solid waste annual facility registration is as follows:

1. Each solid waste facility permittee shall pay an annual facility registration update fee of \$1,010. The annual facility registration update fee is due at the time the annual registration update is submitted, but in no event later than May 1 of each calendar year.

(b) Each solid waste facility permittee shall pay the applicable annual fee listed in the following table for compliance monitoring services. The fees are payable in equal quarterly installments, due on January 1, April 1, July 1 and October 1 of each year. The operator of one intermodal container facility authorized pursuant to N.J.A.C. 7:26-3.6 shall pay the annual fee listed below on January 1 of each year.

Type of Facility	Compliance Monitoring Fees
Sanitary Landfill—operating at 31,200 tons per year (tpy) or more	\$22,988
Sanitary Landfill—operating at less than 31,200 tpy	\$6,386
Transfer Stations and Materials Recovery Facilities—operating at 31,200 tpy or more	\$16,946
Transfer Stations and Materials Recovery Facilities—operating at less than 31,200 tpy	\$5,894
Thermal Destruction Facilities—operating at 9.6 tons per day or more	\$21,072
Thermal Destruction Facilities—operating at less than 9.6 tons per day	\$1,834
Intermodal Container Facilities	\$260
Solid Waste Composting and Co-Composting Facilities	\$3,144

(c) The following tables set forth the classifications of solid waste facilities:

1. Thermal destruction facilities:

- Class A: small scale thermal destruction facility (as such term is defined at N.J.A.C. 7:26-1.4)
- Class B: design capacity greater than 9.6 tons per day

2. Sanitary landfills:

- Class A: Class I sanitary landfill (as such term is defined at N.J.A.C. 7:26-1.4)
- Class B: Class II sanitary landfill (as such term is defined at N.J.A.C. 7:26-1.4)
- Class C: Class III sanitary landfill (as such term is defined at N.J.A.C. 7:26-1.4)

3. Transfer stations and materials recovery facilities:

- Class A: design capacity of less than 100 tons per day
- Class B: design capacity of at least 100 tons per day

4. Compost facilities:

- Class A: vegetative food waste and paper brought in separated form
- Class B: separated compostable waste-no inorganic material (e.g. glass, metal, plastic, etc.)
- Class C: mixed waste requiring manual and/or mechanical separation processes before composting

5. Sanitary landfill closure plan submissions:

Closure Plan

Class A: less than 10 acres

Class B: 10 to 30 acres

Class C: more than 30 acres

(d) The following table sets forth fees (in dollars) for services for the classes of solid waste facilities set forth in (c) above, specified by activity. The Department may, in its discretion, refrain from commencing work or suspend work at any time until the applicant or permittee has paid the designated fee.

1. Thermal Destruction Facilities

	Class	
	A	B
a. Administrative completeness determination	6,734	13,467
b. Engineering design report review	29,460	106,054
c. Permit renewal	21,884	58,077
d. Major modification to permit	9,595	32,826
e. Minor modification to permit	4,040	7,575
f. Transfer of ownership of permit	5,724	9,932
g. Minor technical review	1,010	2,020

2. Sanitary Landfill Facilities

	Class		
	A	B	C
a. Administrative completeness determination	10,100	7,575	3,788
b. Engineering design report review	106,054	73,228	53,027
c. Permit renewal	63,128	42,927	25,251
d. Major modification to permit	20,201	11,615	9,090
e. Minor modification to permit	11,363	7,575	5,050
f. Transfer of ownership of permit	12,626	9,090	7,828
g. Minor technical review	1,515	1,010	505

3. Transfer Stations and Materials Recovery Facilities

	Class	
	A	B
a. Administrative completeness determination	5,050	7,575
b. Engineering design report review	23,736	27,776
c. Permit renewal	20,706	25,251
d. Major modification to permit	11,615	20,201
e. Minor modification to permit	3,535	5,050
f. Transfer of ownership of permit	5,555	5,555
g. Minor technical review	1,010	1,515

4. Compost Facilities

	Class		
	A	B	C
a. Administrative completeness determination	2,525	7,575	7,575
b. Engineering design report review	12,626	22,726	50,502
c. Permit renewal	11,110	17,676	27,776
d. Major modification to permit	4,040	11,615	17,676
e. Minor technical reviews	1,010	1,515	1,515
f. Transfer of ownership of permit	3,535	5,555	5,555

5. Closure Plan

	Class		
	A	B	C
a. Administrative completeness determination	1,178	1,768	2,946
b. Engineering design report review	8,417	12,626	16,834
c. Major modification to approval	2,525	3,788	5,050
d. Minor modification to approval	842	1,683	2,525
e. Transfer of ownership of approval	1,683	2,525	3,788
f. Minor technical review	421	842	1,263

6. Annual Topographic Map Submissions

a. Engineering design report review

2,805

(e) For submissions concerning disruption, methane venting systems, on-site disposal, cover material, beneficial use reviews, RD&D reviews, hearing officer's report, construction facility inspection, contaminated soil reviews, or the solid waste facility performance partnership agreement, the applicant/permittee shall request an initial review of the submission. As part of its initial review, the Department shall determine the fees for performing its services in connection with the submission. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$84.17.

(f) The omission of any type of service from the fee schedules set forth in (a), (b), (d) and (e) above shall not be construed as a waiver of the Department's authority to assess fees for such services. An applicant/permittee making a submission which it believes is not included in any of the schedules set forth in (a), (b), (d) and (e) above shall request an initial review of the submission. As part of its initial review, the Department shall determine the fees for performing its services in connection with the submission. The solid waste facility performance partnership agreement will be assessed a fee based on the hour for hour negotiation of the document with the permittee. This assessment will allow for the flexibility required by the Department and the permittee in establishing its permit pursuant N.J.A.C. 7:26-2.14. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$84.17. The Department will calculate the fee for performance of the Department's services as follows:

1. If the Department determines, in its discretion, that the activity is of a type listed in (a), (b), (d) or (e) above, the amount of the fee shall be equal to the amount listed in (a), (b), (d) or (e).

2. If the Department determines, in its discretion, that such activity is not of a type listed in (a), (b), (d) or (e) above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate of \$84.17.

(g) A determination of a fee made pursuant to (e) or (f) above shall expire on the date which is 90 days after the date such determination has been issued, unless the applicant or permittee has paid such fee to the Department in full before expiration. If the applicant or permittee desires to continue to pursue the submission for which the fee determination has expired, such applicant or permittee shall request a redetermination of the fee in writing, and the Department shall redetermine the fee in accordance with (e) or (f) above, as applicable.

(h) The Department may, in its discretion, refrain from commencing work on the activity which is the subject of a fee determined pursuant to (e) or (f) above until the Department has received full payment of the fee. If the Department has already commenced work, the Department may, in its discretion, suspend such work until it has received full payment of the fee.

Amended by R.1989 d.54, effective January 17, 1989.

See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Deleted "hazardous wastes" from (a)3i.

Repeal and New Rule, R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Note: Reference to the repeal of N.J.A.C. 7:26-4.3 was inadvertently left out of the headings to the notices of proposal and adoption (20 N.J.R. 2668(a), 21 N.J.R. 1002(b)); however, language in the Summary of the proposal and subsequent introduction of new material clearly demonstrated the Department's intention to repeal and replace the rule.

Amended by R.1991 d.368, effective July 15, 1991.

See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

Deleted "facilities"; added "annual facility registration, volume monitoring and planning consistency activities" in (a).

Deleted "a facility monitoring fee from all facilities that are", "be paid when submitting the annual registration update", "The fee is \$500.00 per year."; added "The permittee for a facility who is", "at such facility", "pay an annual facility volume monitoring fee of \$902.00. The annual facility volume monitoring fee is due at the time the annual registration update is submitted but in no event later than May 1 of each calendar year." in (a)1.

Substituted old text with new text in (a)2.

Substituted old text with new text in (a)3.

Deleted (a)4 through 11.

Added (c), (d), (e), (f), (g), (h).

Amended by R.1991 d.368, effective July 14, 1991 (operative March 1, 1992).

See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

N.J.A.C. 7:26-4.3(b) made operative.

Administrative Correction to (b), thermal destruction facilities.

See: 24 N.J.R. 1121(a).

Administrative Correction to (b).

See: 24 N.J.R. 2058(a).

Amended by R.1993 d.98, effective March 1, 1993.

See: 24 N.J.R. 1999(a), (see also 24 N.J.R. 2687(a)), 25 N.J.R. 990(b).

Added new structure at (b).

Amended by R.1996 d.169, effective April 1, 1996.

See: 27 N.J.R. 801(a), 28 N.J.R. 1834(a).

In (b) added fee for intermodal container facilities.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Amended classes and fees.

Administrative correction.

See: 29 N.J.R. 127(b).

7:26-4.4 Fee schedule for transporters

(a) For solid waste transporters, excluding those solely transporting hazardous waste, an annual registration and inspection fee shall be paid.

(b) The registration year shall extend from May 1 through April 30. Fees shall be payable prior to May 1 of each calendar year.

(c) All transporters shall pay an annual fee of \$178.00 for each solid waste cab or for each single-unit solid waste vehicle.

(d) All transporters shall pay an annual fee of \$178.00 for each solid waste trailer.

(e) All transporters shall pay an annual fee of \$22.00 for each solid waste container.

(f) The registration of a single-unit solid waste vehicle, solid waste trailer, solid waste cab, and solid waste container is non-transferable.

(g) All transporters shall pay a fee of \$25.00 for the replacement of a lost or stolen decal.

(h) All transporters shall pay a fee of \$10.00 for the replacement of a lost, stolen, or plate changes of registration card.

Repeal and New Rule, R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Rule at this cite formerly entitled "Engineering design review (per design)".

Amended by R.1991 d.368, effective July 15, 1991 (operative July 15, 1991).

See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

Added "an annual" and changed fees in (c), (d), (e).

Deleted (g).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (b), deleted prohibition of pro rata adjustment; in (c) through (e), amended fees; and added (g) and (h).

7:26-4.5 County enforcement activity fees for solid waste control program

(a) General provisions are as follows:

1. Scope: Unless otherwise provided by state or statute, the following shall constitute the rules of the Department of Environmental Protection concerning fees to be charged for enforcement activities undertaken by county health departments pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H.

2. Construction: This section shall be liberally construed to permit the Department and its component divisions to effectuate the purposes of the above referenced laws.

3. Purpose: This section is promulgated for the following purposes:

i. To aid counties in the development and implementation of a solid waste control program; and

ii. To provide a basis for the Department to review county department fees for enforcement activities related to their solid waste control program based upon the objectives in N.J.S.A. 13:1E et seq. and N.J.A.C. 7:26-1.

4. Definitions: The following words and terms, when used in this section, shall have the following meanings. Where words and terms are used which are not defined

herein, the definitions of those words and terms will be the same as the definitions at N.J.A.C. 7:26-1.4.

“County department” means a county department of health established pursuant to P.L. 1975, c.329 (N.J.S.A. 26:3A2-1 et seq.) as amended and supplemented, with the purpose of providing environmental health programs throughout the county and other local health programs in any municipality which contracts therefor with the county board (N.J.S.A. 26:3A2-21 et seq.)

“Owner or operator” means and includes, in addition to the usual meanings thereof, every owner of record of any interest in land whereon a sanitary landfill facility is located, and any person or corporation which owns a majority interest in any other corporation which owns a majority interest in any sanitary landfill facility.

“Program” means a solid waste control program prepared by the county department pursuant to this section and the procedures and standards authorized by the County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H, and which has been submitted to the Department for review.

(b) Enforcement activity fee schedule established: In accordance with N.J.S.A. 13:1E-9, there is hereby established a fee schedule which shall apply to all sanitary landfill facilities required to be registered with the Department and subject to a county department program.

1. Duties and powers of the county department are as follows:

i. Any county department may charge and collect from the owner or operator of any sanitary landfill facility fees established by ordinance or resolution adopted by the county governing body. Such fees shall be established in accordance with this section for the purpose of enforcing the rules and regulations adopted by the Department related to solid waste collection and disposal, and in conformance with all applicable County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H, adopted pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq.

ii. Within six months of the effective date of this section and by September 1 of each succeeding year as part of its annual work program, pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq., a county department shall submit to the Department a Solid Waste Control Program (Program). The Program shall be submitted to each municipality located in the county for review and comment prior to its submittal to the Department and shall contain monitoring and enforcement activities at least equivalent to those set forth in N.J.A.C. 7:1H-3.4(a) through (u) and shall also include the following:

(1) Identification and number of operating facilities to be inspected;

(2) Projection of the number of inspections to be conducted by facility name (minimum twice per month);

(3) Purpose of inspections;

(4) A description of the procedures for:

(A) Determining inspection frequency;

(B) Accounting for activities performed;

(C) Actions to be taken after inspections have been performed; and

(D) Taking legal action.

(5) In each succeeding year, a report on the previous year's activities, including a detailed financial statement of the previous year's expenditures, actual amount of fees collected and any surplus which can be credited to the next year's costs.

iii. The Program shall include certain county budgetary costs as follows, provided they are both reasonable and necessary. The Department may consider additional costs based upon particular local needs and abilities provided the Department is satisfied that those additional costs are both reasonable and necessary.

(1) Personnel: Identify type, number, and salary required, including benefits therefor;

(2) Local training: In addition to county department training costs, personnel performing solid waste inspections shall also be trained by the Department through the arrangement of joint inspections with departmental inspectors experienced in facility inspections. It shall be the responsibility of the county department to arrange such joint training inspections;

(3) Protective equipment;

(4) Vehicles and maintenance;

(5) Test equipment;

(6) Laboratory and analysis;

(7) Office equipment and supplies;

(8) Secretarial, office and general administrative support; and

(9) Costs based on (b)1ii(1) through (5) above.

2. Fees for the Program are as follows:

i. After review by the Department of its Program, and pursuant to a resolution or ordinance adopted by the county governing body, any county department may charge and collect fees from the owner or operator of any sanitary landfill facility within its jurisdiction, as follows:

(1) At the maximum rate of \$0.01 per cubic yard of solid waste accepted for disposal at a facility;

(c) If the violator fails to include all the information required by (a) above, the Department may deny the hearing request.

(d) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Administrative Change in (a).
See: 23 N.J.R. 3325(b).
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a)1, deleted reference to EPA identification number.

7:26-5.4 Civil administrative penalties for violations of rules adopted pursuant to the Act

(a) The Department may assess a civil administrative penalty pursuant to this section of not more than \$50,000 for each violation of each requirement of any rule listed in N.J.A.C. 7:26-5.4(g).

(b) Each violation of a rule listed in N.J.A.C. 7:26-5.4(g) shall constitute an additional, separate and distinct violation.

(c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.

(d) For each parameter that is required to be monitored, sampled or reported, the failure to so monitor, sample or report shall constitute an additional, separate and distinct violation.

(e) Where any requirement of any rule listed in N.J.A.C. 7:26-5.4(g) may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.

(f) The Department shall determine the amount of a civil administrative penalty for each violation of any rule listed in (g) below on the basis of the provision violated, according to the following procedure. For a violation of a requirement or condition of an administrative order, permit, license or other operating authority, the Department may in its sole discretion identify the corresponding requirement of any rule summary listed in (g) below and determine the amount of the civil administrative penalty on the basis of the rule provision violated.

1. Identify the rule violated as listed in N.J.A.C. 7:26-5.4(g)1 through 8A;
2. Identify the corresponding base penalty dollar amount for the rule violated as listed in N.J.A.C. 7:26-5.4(g)1 through 8A;
3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

Severity Factor	Multiplier
i. Violator had violated the same rule less than 12 months prior to the violation....	1.00
ii. Violator had violated a different rule less than 12 months prior to the violation....	0.50
iii. Violator had violated the same rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation.....	0.50
iv. Violator had violated a different rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation.....	0.25

4. To obtain the civil administrative penalty, add all of the severity penalty components pursuant to (f)3 above, to the base penalty. If the sum total exceeds \$50,000, then the civil administrative penalty shall be \$50,000.

EXAMPLE:

Base penalty (for violation of N.J.A.C. 7:26-2.12(f))	=	\$1,000
Subparagraph (f)3iii applies: 0.50x1000	=	500
Subparagraph (f)3iv applies: 0.25x1000	=	+ 250
Civil administrative penalty		<u>\$1,750</u>

5. For the purpose of this section, violation of the "same rule" means violation of the same specific requirement of a rule. Where a rule has a list of specific requirements, the same item on the list must be violated to be considered violation of the "same rule."

(g) The rule summary in this subsection, which summarizes certain provisions in N.J.A.C. 7:26 and 7:26A, is provided for informational purposes only. In the event that there is a conflict between the rule summary in this subsection and a provision in N.J.A.C. 7:26 and 7:26A, then the provision in N.J.A.C. 7:26 and 7:26A shall prevail.

1. The violations of N.J.A.C. 7:26-1, General Provisions, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>
7:26-1.7(b)	Failure of owner or operator of any facility exempted under N.J.A.C. 7:26-1.7 to comply with all conditions set forth in its certificate of authority to operate	\$2,000

2. The violations of N.J.A.C. 7:26-2, Disposal, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>
7:26-2.7(b)1	Failure of permittee to apply for a permit renewal at least 90 days prior to the expiration date of the existing SWF permit.	\$2,000
7:26-2.8(b)	Failure of permittee to submit a statement updating the information contained in the initial registration statement.	\$2,000

3. The violations of N.J.A.C. 7:26-2A, Additional Specific Disposal Regulations for Sanitary Landfills, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Rule N.J.A.C.	Rule Summary	Base Penalty
7:26-2.8(c)	Failure of permittee to notify the Department within 30 days of any change of information in the registration statement.	\$2,000			
7:26-2.8(e)	Failure to apply and receive approval of a SWF permit prior to engaging in the disposal of solid waste in this State.	\$2,000			
7:26-2.8(f)	Failing to obtain a SWF permit prior to constructing or operating a solid waste facility.	\$5,000			
7:26-2.8(j)	Failure to meet all conditions, restrictions, requirements or any other provision set forth in SWF permit	\$2,000	7:26-2A.8(b)1	Failure to confine working face to the smallest practical area.	\$2,000
7:26-2.8(k)	Failure to receive Department approval prior to modifying, revising or otherwise changing a permit condition.	\$2,000	7:26-2A.8(b)2	Failure to compact waste to yield smallest volume.	\$2,000
7:26-2.8(l)	Failure to receive Department approval prior to transferring ownership of a SWF permit.	\$5,000	7:26-2A.8(b)3	Failure to compact waste in shallow layers; or compacting waste over leachate collection pipes per N.J.A.C. 7:26-2A.7(d)3xiv.	\$2,000
7:26-2.11(b)1	Failure of operator to clean areas where waste has been deposited or stored within each 24 hour period, for sanitary landfills all areas where waste has been deposited shall be covered.	\$2,000	7:26-2A.8(b)4	Failure to ensure lift height of daily cell does not exceed 12 feet.	\$2,000
7:26-2.11(b)2	Failure to ensure any waste stored overnight at any facility is effectively treated.	\$2,000	7:26-2A.8(b)5	Failure to ensure slope is no steeper than 3:1.	\$2,000
7:26-2.11(b)3	Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents.	\$3,000	7:26-2A.8(b)6	Failure of balefill operations to comply with working face requirements.	\$2,000
7:26-2.11(b)4	Failure to implement dust control methods.	\$2,000	7:26-2A.8(b)7	Failure to obtain department approval of separate areas for storage of demolition waste or recyclable materials.	\$2,000
7:26-2.11(b)5	Failure to ensure no odors are detected off-site.	\$4,000	7:26-2A.8(b)8	Failure to cover exposed surfaces of solid waste at close of each operating day with daily cover.	\$2,000
7:26-2.11(b)6	Failure to maintain all facility systems in a manner that facilitates proper operation and minimizes system downtime.	\$2,000	7:26-2A.8(b)9	Failure to progressively apply daily cover.	\$2,000
7:26-2.11(b)7	Failure to maintain an adequate water supply and adequate fire-fighting equipment.	\$5,000	7:26-2A.8(b)10	Failure to apply intermediate cover (a minimum of 12 inches of earth) to surfaces exposed more than 24 hours.	\$2,000
7:26-2.11(b)8	Failure to control insects, other arthropods and rodents.	\$3,000	7:26-2A.8(b)11	Failure to maintain grade, thickness and integrity of intermediate and final cover.	\$2,000
7:26-2.11(b)9	Failure to admit only properly registered solid waste vehicles for loading or unloading of any solid waste.	\$3,000	7:26-2A.8(b)12	Failure to grade areas with intermediate cover to facilitate drainage.	\$2,000
7:26-2.11(b)10	Failure to designate a secure area where solid waste may be unloaded from vehicles exempt from registration under N.J.A.C. 7:26-3.3.	\$2,000	7:26-2A.8(b)13	Failure to use appropriate daily and intermediate cover materials; not maintaining sufficient quantity of cover at site; not maintaining standby supply of cover within boundaries.	\$2,000
7:26-2.11(b)11	Failure to comply at all times with the conditions of SWF permit.	\$2,000	7:26-2A.8(b)14	Failure to construct final cover in accordance with N.J.A.C. 7:26-2A.7(i) and to apply it to all surfaces.	\$2,000
7:26-2.11(b)12	Failure to designate a secure area where unpermitted waste can be deposited.	\$2,000	7:26-2A.8(b)15	Failure to maintain sufficient types and quantities of equipment to adequately meet the requirements of (b) 7 through (10) above.	\$2,000
7:26-2.11(b)13	Failure to maintain a record of the quantity of each waste type accepted for disposal.	\$5,000	7:26-2A.8(b)16	Failure to maintain steel wheel type compactors of at least 45,000 pounds.	\$2,000
7:26-2.11(b)15	Failing to ensure waste is not received in excess of the system's designed capacity.	\$2,000	7:26-2A.8(b)17	Failure to equip landfill equipment with safety devices.	\$5,000
7:26-2.11(b)16	Failure to operate the facility in a manner that employs the use of equipment and other techniques as identified in the facility's SWF permit.	\$2,000	7:26-2A.8(b)18	Failure, in the case of breakdown of equipment, to repair or obtain replacement within 24 hours; or to include a maintenance contract in O&M plan.	\$2,000
7:26-2.11(b)17	Failure to provide a means of cleaning vehicle tires of debris.	\$2,000	7:26-2A.8(b)19	Failure to limit access for disposal to operating hours only.	\$2,000
7:26-2.11(b)18	Failure to maintain an approved O&M manual at the facility, changes to be submitted, at a minimum, on an annual basis.	\$3,000	7:26-2A.8(b)20	Failure to secure landfill with a six-foot high chain link fence.	\$2,000
7:26-2.12(b)	Failure of generators of asbestos containing waste materials to submit a complete written notification of intent to demolish, 10 days prior to beginning the demolition activity.	\$1,000	7:26-2A.8(b)21	Failure to maintain all weather road to working face.	\$2,000
7:26-2.12(c)	Failure of generators of asbestos containing waste material to submit a complete written notification of intent to renovate, 10 days prior to beginning the renovation activity.	\$1,000	7:26-2A.8(b)22	Failure to control litter.	\$3,000
7:26-2.13(a)7	Failure to maintain a daily record of asbestos waste and make appropriate submittals.	\$3,000	7:26-2A.8(b)23	Failure to control dust by spraying water or equivalent.	\$2,000
7:26-2.13(a)8	Failure to maintain additional required reports in the daily record.	\$2,000	7:26-2A.8(b)24	Failure to eliminate emissions which result in odors detectable in areas of human use or occupancy beyond boundary line; or to control the odors by use of daily cover; or to immediately cover odorous waste with minimum six inches of cover.	\$4,000
7:26-2.13(c)2	Failure of transporter to complete and sign O and D form prior to disposal.	\$2,000	7:26-2A.8(b)25	Failure to control the off-site tracking of mud and soil.	\$2,000
7:26-2.13(c)3	Failure of facility operator to verify the O and D form.	\$2,000	7:26-2A.8(b)26	Failure to minimize the propagation and harborage of insects, rodents, and birds.	\$2,000
7:26-2.13(e)	Failure to submit monthly summaries of waste to the Department.	\$3,000	7:26-2A.8(b)27	Failure to protect all monitoring devices and environmental systems from damage.	\$5,000
7:26.2.14(j)	Failure of SWFPPA permittee to prepare and submit a complete annual progress report.	\$2,000	7:26-2A.8(b)28	Failure to have supervisor on site in order to insure proper operation, evaluate monitoring data and inspection reports, determine performance of landfill, implement all operational decisions and ensure compliance with N.J.S.A. 13:1E-1 et seq., this chapter and the SWF Permit.	\$5,000
7:26.2.14(k)	Failure of SWFPPA permittee to conduct a complete facility wide benchmark audit not less than once every five years.	\$2,000	7:26-2A.8(b)29		

Rule	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
7:26-2A.8(b)38-41	Failure to ensure that landfill personnel complete a program of on-the-job training, all personnel complete training program within six months after date of employment, all personnel take part in annual update of initial training program, keep records of training received by personnel until closure.	\$2,000	7:26-2B.8(f)	Failure of the owner or operator to implement waste receiving area control procedures that provide for the inspection of the incoming waste stream for the purpose of removing nonprocessable or potentially explosive materials prior to the initiation of processing.	\$3,000
7:26-2A.8(c)	Failure to maintain environmental control systems in functioning manner, or to inspect them.	\$5,000	7:26-2B.8(g)	Failure, should the facility experience equipment or system malfunction to the extent that the waste received cannot be handled or processed in the normal manner, of the operator to notify the Department of the existence of such a situation and circumstances contributing to the situation within the same working day of its occurrence.	\$3,000
7:26-2A.8(d-e)	Failure to perform inspections required by (c) above on a weekly basis and after storm events, and comply with recordkeeping requirements.	\$3,000	7:26-2B.8(i)	Failure to store unprocessed incoming waste, facility process waste residues and effluents, and recovered materials in bunkers, pits, bins, or similar containment vessels and to keep at all times at levels that prevent spillage or overflow.	\$2,000
7:26-2A.8(f)	Failure of operator to make repairs in accordance with N.J.A.C. 7:26-2A.8(b)28 and O&M manual, if deterioration or malfunction occurs.	\$2,000	7:26-2B.8(j)	Failure to keep waste delivery tipping hall doors closed during non-processing or non-receiving hours.	\$2,000
7:26-2A.8(g)	Failure to maintain and inspect sanitary landfill according to requirements.	\$2,000	7:26-2B.8(k)	Failure to schedule the delivery of waste to the facility and the removal of residues and recovered products from the site so as to eliminate traffic backups and allow for fluid vehicular movement on site.	\$2,000
7:26-2A.8(h)	Failure to monitor in accordance with parameters and schedules.	\$5,000	7:26-2B.8(l)	Failure to ensure that samples and measurements taken for the purpose of monitoring facility process and treatment operations are representative of the process or operation and are performed with the conditions of the facility's SWF permit.	\$5,000
7:26-2A.8(i)	Failure to submit an annual topographic survey prepared according to N.J.A.C. 7:26-2A.8(i)1 through 4 by May 1 of each year.	\$2,000	7:26-2B.8(m-r)	Failure of the operator to comply with waste determination, waste analysis and required recordkeeping.	\$5,000
7:26-2A.8(j)1	Failure to obtain written approval of the Department prior to disruption/excavation.	\$2,000	7:26-2B.8(s)	Failure of the owner or operator to have a 24-hour surveillance system which continuously monitors and controls entry to the facility or an artificial or natural barrier which completely surrounds the facility.	\$5,000
7:26-2A.8(j)3	Failure to keep area of excavation consistent with amount of equipment, and to keep excavation to smallest practical area.	\$2,000	7:26-2B.8(t)	Failure of a facility to maintain required personnel, supervisor, boiler operator, licensed engineer to assure the proper and orderly operation of all system components, along with the ability to handle all routine facility maintenance requirements.	\$5,000
7:26-2A.8(j)4	Failure to control dust, odors, fires, rodents, insects, blowing litter.	\$3,000	7:26-2B.8(u)	Failure to ensure that all personnel complete an initial program of classroom instruction and on-the-job training, training program directed by a person thoroughly familiar with the technology, ensure that facility personnel respond to any malfunction or emergency situation, complete the initial training program within six months, planned annual review of the initial training, records document the type and amount of training received, kept until closure, former employees records kept for at least one year.	\$2,000
7:26-2A.8(k)6	Failure to repair any disruption of finished grade or covered surface upon completion of firefighting activities.	\$2,000			
7:26-2A.8(l)	Failure to comply with asbestos waste disposal requirements.	\$3,000			

4. The violations of N.J.A.C. 7:26-2B, Additional Specific Disposal Regulations for Thermal Destruction Facilities, Transfer Stations, Materials Recovery Facilities, Co-Composting and Mixed Solid Waste Composting Facilities, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
N.J.A.C. 7:26-2B.7(b)	Failure of solid waste composting and co-composting facility to comply with quarterly report requirements.	\$2,000	7:26-3.2(a)	Failure to obtain an approved registration statement from the Department prior to engaging in the transportation of solid waste.	\$8,000
7:26-2B.7(d)	Failure of solid waste composting and co-composting facility to comply with training requirements; Access to facility prohibited when facility is closed.	\$2,000	7:26-3.2(a)2	Failure to ensure that any device used for the transportation of solid waste is registered with the Department.	\$2,000
7:26-2B.7(e)	Failure of solid waste composting and co-composting facility to monitor temperature of composting materials to ensure pathogen reduction criteria are met.	\$2,000	7:26-3.2(a)4	Failure of registrant to ensure registered vehicles, cabs, containers, etc. are not used, controlled or possessed by any other person.	\$5,000
7:26-2B.7(f)	Failure of solid waste composting and co-composting facility to comply with incoming waste processing timeframes and requirements.	\$2,000	7:26-3.2(c)	Failure to comply with any conditions or limitations which may be specified on the approved registration.	\$5,000
7:26-2B.7(g)	Failure of solid waste composting and co-composting facility to ensure incoming, unprocessed waste is not mixed with finished compost.	\$2,000	7:26-3.2(d)	Failure of a registrant to submit a transporter registration renewal updating information contained in the previous registration statement.	\$2,000
7:26-2B.7(h)	Failure of solid waste composting and co-composting facility to comply with 15 month finished compost storage requirement.	\$1,000			
7:26-2B.7(i)	Failure of solid waste composting and co-composting facility to comply with recordkeeping requirements.	\$2,000			
7:26-2B.7(j-n)	Failure of solid waste composting and co-composting facility to comply with monitoring and sampling requirements.	\$3,000			
7:26-2B.7(o)	Failure of solid waste composting and co-composting facility to comply with labeling requirements.	\$2,000			
7:26-2B.7(p)	Failure of solid waste composting and co-composting facility to comply with USEPA 40 CFR 503 general requirements.	\$2,000			
7:26-2B.8(d)	Failure of the owner or operator to conduct inspections as indicated in the approved final O&M				

5. The violations of N.J.A.C. 7:26-3, Transportation, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>
7:26-3.2(e)	Failure of registrant to notify the Department within 30 days of any change in the registration statement.	\$2,000	7:26-3A.8(c)3	Failure of a non-commercial collection facility or an intermediate handler treating their own waste to register with the Department.	\$2,000
7:26-3.4(b)	Failure to deposit all collected solid waste at an approved facility.	\$5,000	7:26-3A.8(d)1	Failure of commercial collection facility to register with the Department.	\$5,000
7:26-3.4(c)	Failure to ensure solid does not remain or is stored in any solid waste vehicle in excess of 24 hours, unless an emergency.	\$2,000	7:26-3A.8(d)5,6	Failure of a non-commercial collection facility to register with the Department.	\$2,000
7:26-3.4(d)	Failure to ensure design of solid waste vehicle is such that it will not cause spillage onto roadways.	\$2,000	7:26-3A.9	Failure of transporters', intermediate handlers' and destination facilities' supervisory personnel to attend an education and training session and disseminate information to employees.	\$2,000
7:26-3.4(e)	Failure to ensure solid waste vehicle is not loaded beyond its design capacities or in such a manner that will cause spillage onto roadways.	\$2,000	7:26-3A.10(a)	Failure of generators of RMW to segregate for off-site transport prior to placement in containers.	\$1,000 \$3,000
7:26-3.4(f)	Failure to keep all solid waste vehicles in good working condition and to provide a means of continuous service in the event an emergency arises.	\$2,000	7:26-3A.10(d)	Failure to handle a package of RMW mixed with other waste as RMW.	\$1,000 \$3,000
7:26-3.4(g)	Failure to protect property of customer.	\$2,000	7:26-3A.11	Failure of a generator to ensure that RMW is properly packaged before transporting or offering for transport off site.	\$1,000 \$3,000
7:26-3.4(h)	Failure to properly mark each solid waste vehicle or to carry current DEP registration certificate.	\$2,000	7:26-3A.12(a)	Failure to comply with RMW storage requirements.	\$1,000 \$3,000
7:26-3.4(i)	Failure to use tarpaulins as needed.	\$2,000	7:26-3A.12(b)	Failure to comply with RMW storage periods.	\$500 \$1,000
7:26-3.4(j)	Failure to access or exit a solid waste facility pursuant to the district management plan or SWF permit.	\$2,000	7:26-3A.12(c)	Failure to secure sharps containers.	\$1,000 \$3,000
7:26-3.5(a)1	Failure to design all solid waste vehicles used for the transportation of sewage sludge to preclude any spillage or leakage onto roadways.	\$2,000	7:26-3A.13(a)	Failure to comply with container decontamination and reuse requirements.	\$1,000 \$3,000
7:26-3.5(a)2	Failure to ensure sewage sludge and other fecal material is not intermixed with other wastes of a chemical or industrial nature.	\$5,000	7:26-3A.14(a)	Failure to comply with labeling requirements.	\$500 \$1,000
7:26-3.5(b)	Failure to design all solid waste vehicles used for the transportation of bulky waste to preclude any spillage.	\$2,000	7:26-3A.15(a)	Failure to comply with marking requirements.	\$500 \$1,000
7:26-3.5(c)	Failure to ensure radioactive material and lethal chemicals are not transported in or through this State without prior approval from authorities having jurisdiction, and from the Department.	\$5,000	7:26-3A.16(a)	Failure to determine if waste is RMW.	\$1,000 \$3,000
7:26-3.5(d)1	Failure to design all solid waste vehicles used for the transportation of asbestos waste so as to preclude any spillage leakage or emissions therefrom.	\$3,000	7:26-3A.16(d)	Failure to use properly registered transporters.	\$1,000 \$3,000
7:26-3.5(d)2	Failure to package asbestos for transportation in accordance with 40 CFR 61.152 and N.J.A.C. 7:26-2.12.	\$5,000	7:26-3A.16(e)	Failure to dispose of RMW at an authorized facility.	\$5,000 \$10,000
7:26-3.5(d)3	Failure to transport asbestos in a manner that prevents the rupture of containers in loading, transporting and unloading operations.	\$5,000	7:26-3A.16(h)	Failure to comply with home self-care RMW requirements.	\$500 \$1,000
7:26-3.5(d)4	Failure to transport collected asbestos directly from the point of generation to the solid waste landfill permitted to receive such wastes.	\$5,000	7:26-3A.16(i)	Failure to get approval from the department prior to using an alternative or innovative technology for the treatment or destruction of RMW.	\$1,000 \$5,000
7:26-3.5(d)6	Failure to ensure no visible air emissions are generated during loading, transporting, or unloading operations.	\$5,000	7:26-3A.19	Failure of a generator to comply with tracking form requirements.	\$500 \$2,000
7:26-3.7(a)	Failure to ensure waste materials to be collected and transported show no evidence of smoking, smoldering or burning.	\$5,000	7:26-3A.21	Failure to comply with generator recordkeeping requirements.	\$500 \$1,000
			7:26-3A.22	Failure of generator to comply with exception reporting requirements.	\$500 \$1,000
			7:26-3A.25	Failure of generator with on-site incinerator to comply with recordkeeping requirements.	\$1,000 \$3,000
			7:26-3A.26	Failure of owner/operator of on-site incinerator to comply with reporting requirements.	\$1,000 \$3,000
			7:26-3A.27(i)	Failure of a transporter/collection facility to dispose of RMW stored in the vehicle within fourteen calendar days, or before it becomes putrescent.	\$2,000
			7:26-3A.28	Failure of a transporter to comply with RMW acceptance requirements.	\$3,000
			7:26-3A.30(a)1	Failure of vehicle to have fully enclosed, leak resistant cargo carrying body.	\$2,000
			7:26-3A.30(a)2	Failure to ensure RMW does not become putrescent and is not subjected to mechanical stress or compaction during loading and unloading or during transit.	\$2,000
			7:26-3A.30(a)3	Failure to maintain cargo carrying body in good sanitary condition.	\$2,000
			7:26-3A.30(a)4	Failure to securely lock unattended cargo carrying body.	\$5,000
			7:26-3A.30(b)	Failure to comply with vehicle identification requirements.	\$1,000
			7:26-3A.30(c)	Failure to manage RMW/solid waste mixture as RMW.	\$5,000
			7:26-3A.31	Failure of transporter to comply with tracking form requirements.	\$2,000
			7:26-3A.32(a)	Failure to deliver entire quantity of RMW to intermediate hauler, destination facility or next transporter.	\$1,000
			7:26-3A.32(b)	Failure to contact generator for directions and make changes accordingly, if RMW cannot be delivered as intended.	\$1,000
			7:26-3A.33(a)	Failure to comply with requirements for consolidating waste to a new tracking form.	\$2,000

6. The violations of N.J.A.C. 7:26-3A, Regulated Medical Waste, and the civil administrative penalty amounts for each violation, are as set forth in the following table. The lesser penalty amount applies to persons registered in generator categories 1 through 3 (<300 lbs/year). The larger penalty amount applies to persons registered in generator categories 4 and 5 (>300 lbs/year).

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>
N.J.A.C.					
7:26-3A.8(a)	Failure of a generator of RMW to register with the Department.	\$1,500 \$5,000	7:26-3A.31	Failure of transporter to comply with tracking form requirements.	\$2,000
7:26-3A.8(a)1	Failure of a generator of RMW to register in the proper category.	\$1,000	7:26-3A.32(a)	Failure to deliver entire quantity of RMW to intermediate hauler, destination facility or next transporter.	\$1,000
7:26-3A.8(b)1	Failure of a commercial transporter of RMW to register with the Department.	\$5,000	7:26-3A.32(b)	Failure to contact generator for directions and make changes accordingly, if RMW cannot be delivered as intended.	\$1,000
7:26-3A.8(b)2	Failure of a non-commercial transporter of RMW to register with the Department.	\$2,500	7:26-3A.33(a)	Failure to comply with requirements for consolidating waste to a new tracking form.	\$2,000
7:26-3A.8(c)	Failure of commercial intermediate handlers and owner/operators of destination facilities to register with the Department.	\$5,000			

Rule	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
7:26-3A.34	Failure of transporter to comply with recordkeeping requirements.	\$3,000		by the NJDEP and DOH prior to any marketing, sale or use in New Jersey.	\$5,000
7:26-3A.35	Failure of transporter to comply with reporting requirements.	\$3,000	7:26-3A.48(a,b)	Failure of an out-of-State organization using the U.S. Postal Service or other parcel service and disposing of regulated medical waste from New Jersey to comply with certification requirements.	\$2,000
7:26-3A.37(a)	Failure of transporter to have an approved RMW spill management plan.	\$2,000	7:26-3A.48(c)	Failure of a RMW generator to ensure that RMW waste is not sent to any out-of-State facility which does not have a certificate on file with the Department.	\$5,000
7:26-3A.37(b)	Failure of transporter to have a RMW spill containment and cleanup kit at all sites and in all vehicles used for the storage, handling, collection, treatment and collection of RMW.	\$2,000			
7:26-3A.38(b)6	Failure of RMW incinerator to ensure waste stored overnight is effectively treated.	\$2,000			
7:26-3A.38(b)7	Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents.	\$2,000			
7:26-3A.38(b)8	Failure to ensure no odors are detected off-site.	\$4,000			
7:26-3A.38(b)9	Failure to maintain all facility systems in a manner that facilitates proper operation and minimizes system downtime.	\$2,000			
7:26-3A.38(b)10	Failure to maintain adequate water supply and fire fighting equipment, failure to post emergency numbers (fire, police, ambulance, hospital).	\$5,000	Rule N.J.A.C. 7:26-6.5	Rule Summary Failure to comply with the district waste flow plan.	Base Penalty \$10,000
7:26-3A.38(b)11	Failure to effectively control insects, arthropods, rodents.	\$2,000			
7:26-3A.38(b)12	Failure to maintain orderly operation and sanitary conditions.	\$2,000			
7:26-3A.38(b)14	Failure to maintain O&M manual at the facility.	\$3,000			
7:26-3A.38(b)17	Failure of facility to accept RMW only from properly registered transporters.	\$2,000			
7:26-3A.39(i)1	Failure to ensure stored waste does not exceed 300,000 pounds or amount as specified in authorization.	\$2,000	Rule N.J.A.C. 7:26A-3.1(a)	Rule Summary Failure of approved recycling center to comply with all approval conditions.	Base Penalty \$2,000
7:26-3A.39(i)2	Failure to ensure collection facility receives no more than 150,000 pounds of waste per day, or as otherwise indicated in authorization.	\$2,000	7:26A-3.5(f)	Failure of recycling center to post a legible sign at the recycling center entrance indicating its approval and listing items detailed in 3.2(a)13i and ii.	\$500
7:26-3A.39(i)4	Failure to accept only RMW waste managed in accordance with N.J.A.C. 7:26-3A.	\$2,000	7:26A-3.6	Failure to submit renewal application for a general approval to the Department at least three months prior to the current approval expiration and to comply with all submittal requirements.	\$1,000
7:26-3A.39(i)5	Failure to ensure only registered vehicles transport to and from facility.	\$2,000	7:26A-3.7(j)	Failure, within 45 days after expiration of the time period authorized by the limited approval to operate a recycling facility, to file a final report with the Department.	\$2,000
7:26-3A.39(i)6	Failure to ensure all waste at all times remains fully contained, and does not leak.	\$3,000	7:26A-3.7(k)	Failure of persons operating a limited approved recycling center to ensure that no illegal dumping occurs.	\$2,000
7:26-3A.39(i)9	Failure to ensure no odors are detected off-site.	\$4,000	7:26A-3.8(a)	Failure to limit processing methods for tires to slicing, shredding, chipping, crumbing or other methods approved by the Department, prohibition to incinerating, landfilling, abandoning or otherwise illegally disposing of tires.	\$3,000
7:26-3A.39(i)10	Odor causing waste to be disposed of immediately.	\$4,000	7:26A-3.8(b)	Failure by the owner or operator of the tire recycling center to ensure that no mosquito colony formation develops.	\$2,000
7:26-3A.39(i)10	Failure to implement and maintain effective security procedures.	\$2,000	7:26A-3.8(c)	Failure of a tire, tree stump, tree part or wood waste recycling center to have an approved fire control plan.	\$5,000
7:26-3A.39(i)13	Failure to implement routine housekeeping and maintenance procedures.	\$2,000	7:26A-3.9(a)	Failure of recycling center to ensure the temporary storage of Class B recyclable material does not exceed the amount indicated in the general or limited approval to operate.	\$2,000
7:26-3A.39(i)16	Failure to ensure truck queuing is minimized, on-site traffic controls implemented.	\$2,000	7:26A-3.9(b)	Failure of recycling center to ensure that unprocessed Class B recyclable material is not stored in excess of one year from the date of receipt.	\$2,000
7:26-3A.39(i)17	Failure to ensure RMW is not staged, placed or stored beyond confines of facility or vehicle.	\$2,000	7:26A-3.10	Failure of recycling center to comply with modification requirements.	\$2,000
7:26-3A.39(j)2	Failure to maintain O&M manual at the facility.	\$3,000	7:26A-3.15(a)	Failure to ensure a general or limited approval to operate a recycling center is not transferred without prior approval of the Department.	\$5,000
7:26-3A.39(j)3	Failure to comply with training program requirements.	\$2,000	7:26A-3.15(c)	Failure to provide one copy of written request to transfer approval to the recycling coordinator and one copy to the applicable municipal planning board.	\$2,000
7:26-3A.39(j)6	Failure to maintain fire protection systems in operable condition, fire procedures posted.	\$5,000	7:26A-3.17(a)	Failure of recycling center to comply with recordkeeping and annual reporting requirements.	\$3,000
7:26-3A.39(j)7	Failure to ensure that noise levels do not exceed standards set forth in N.J.A.C. 7:29.	\$4,000	7:26A-4.1(a)1i	Failure of recycling center to ensure that recyclable material is separated at the point of generation from other waste material.	\$3,000
7:26-3A.39(j)8	Failure to maintain on site operating records, O&M manual.	\$3,000			
7:26-3A.39(j)9	Failure to maintain safety appliances in proper operating order, comply with O&M inspection schedules, maintain inspection records.	\$5,000			
7:26-3A.39(k)	Failure to comply with recordkeeping and reporting requirements.	\$3,000			
7:26-3A.40(c)3	Failure of intermediate handlers and destination facilities to ensure only approved treatment and destruction processes authorized by NJDEP and DOH are utilized.	\$2,000			
7:26-3A.41	Failure to comply with tracking form requirements.	\$2,000			
7:26-3A.42	Failure to comply with tracking form discrepancy requirements.	\$500			
7:26-3A.43	Failure to comply with recordkeeping requirements.	\$3,000			
7:26-3A.44	Failure of collection facilities, intermediate handlers and/or destination facilities to comply with additional reporting requirements.	\$2,000			
7:26-3A.46	Failure of rail transporter to comply with tracking form requirements.	\$2,000			
7:26-3A.47(a)	Failure to ensure alternative or innovative technology processes and any modifications are approved				

7. The violations of N.J.A.C. 7:26-6, Interdistrict and Intradistrict Solid Waste Flow, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

8. The violations of N.J.A.C. 7:26A, Recycling Rules, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>
7:26A-4.1(a)lii	Failure of recycling center to ensure only Class A, Class B or Class C materials are received, stored, processed or transferred at the center.	\$3,000	7:26A-4.5(a)15v	Failure of Class C yard trimming operator to comply with material staging and processing buffer distance requirements.	\$2,000
7:26A-4.1(a)liiii	Failure of recycling center to comply with commingling requirements.	\$2,000	7:26A-4.5(a)15vi	Failure of Class C yard trimming operator to comply with 15 month finished compost storage requirement.	\$1,000
7:26A-4.1(a)2	Failure of recycling center to ensure residue is not stored on-site in excess of six months.	\$2,000	7:26A-4.5(a)15vii	Failure of Class C yard trimming operator to comply with finished compost testing requirements.	\$2,000
7:26A-4.1(a)4	Failure of recycling center to store residue separately from recyclable material and in a manner which prevents run-off, leakage or seepage from the residue storage area into, on or around the soil of the residue storage area.	\$2,000	7:26A-4.5(a)15x	Failure of Class C yard trimming operator to comply with additional recordkeeping requirements.	\$3,000
7:26A-4.1(a)5	Failure of recycling center to ensure hazardous wastes are not stored, processed or transferred at any recycling center.	\$5,000	7:26A-4.5(b)1	Failure of Class C material operator to ensure traffic associated with the center does not result in a degradation of a level of service of any major intersection or public roadway within a half-mile radius.	\$2,000
7:26A-4.1(a)6	Failure of recycling center to ensure electronic components which contain polychlorinated biphenyls (PCBs) and which are attached to or detached from appliances or other scrap metal, are not shredded, sheared or baled.	\$5,000	7:26A-4.5(b)2	Failure of Class C material operator to ensure center has sufficient capacity to handle incoming volumes.	\$2,000
7:26A-4.1(a)8	Failure to operate a recycling center in such a manner that the recycling center property is maintained free of litter and debris and such that tracking of mud into nearby streets is prevented.	\$2,000	7:26A-4.5(b)3	Failure of Class C material operator to ensure center has effective visual screen buffer.	\$2,000
7:26A-4.4(a)	Failure by the owner or operator of a recycling center to provide a recycling tonnage report by February 1 of each year.	\$1,000	7:26A-4.5(b)4	Failure of Class C material operator to ensure unauthorized access to center is controlled.	\$2,000
7:26A-4.4(b)	Failure by a transporter of recyclable materials to provide a recycling tonnage report by February 1 of each year.	\$1,000	7:26A-4.5(b)5	Failure of Class C material operator to prevent vehicular tracking of soil, generation of dust, by compaction or paving.	\$2,000
7:26A-4.4(c)	Failure of exempt person to submit required tonnage reports by February 1 of each year.	\$1,000	7:26A-4.5(b)6	Failure of Class C material operator to comply with composting structure requirements, no ponding, leachate control.	\$2,000
7:26A-4.5(a)2	Failure of Class C yard trimming operator to ensure traffic associated with the center does not result in a degradation of a level of service of any major intersection or public roadway within a half-mile radius.	\$2,000	7:26A-4.5(b)7	Failure of Class C material operator to maintain fully enclosed operation.	\$2,000
7:26A-4.5(a)3	Failure of Class C yard trimming operator to ensure center has sufficient capacity to handle incoming volumes.	\$2,000	7:26A-4.5(b)9	Failure of Class C material operator to have adequate water supply, fire-fighting equipment, local fire department phone numbers posted.	\$5,000
7:26A-4.5(a)4	Failure of Class C yard trimming operator to ensure center has effective visual screen buffer.	\$2,000	7:26A-4.5(b)10	Failure of Class C material operator to comply with O&M manual requirements.	\$3,000
7:26A-4.5(a)5	Failure of Class C yard trimming operator to ensure unauthorized access to center is controlled.	\$2,000	7:26A-4.5(b)12, 13	Failure of Class C material operator to comply with employee training requirements.	\$2,000
7:26A-4.5(a)6	Failure of Class C yard trimming operator to prevent vehicular tracking of soil, generation of dust, by compaction or paving.	\$2,000	7:26A-4.5(b)14	Failure of Class C material operator to have properly trained individual supervising operation.	\$2,000
7:26A-4.5(a)7	Failure of Class C yard trimming operator to maintain improved active composting surface, no ponding or runoff.	\$2,000	7:26A-4.5(b)16	Failure of Class C material operator to comply with incoming organics processing timeframes and requirements.	\$2,000
7:26A-4.5(a)8	Failure of Class C yard trimming operator to post entrance sign identifying operating hours.	\$100	7:26A-4.5(b)17	Failure of Class C material operator to ensure incoming, unprocessed material is not mixed with finished compost.	\$2,000
7:26A-4.5(a)9	Failure of Class C yard trimming operator to have adequate water supply, fire-fighting equipment, local fire department phone numbers posted.	\$5,000	7:26A-4.5(b)18, 19	Failure of Class C material operator to meet PFRB criteria and requirements.	\$2,000
7:26A-4.5(a)10	Failure of Class C yard trimming operator to have properly trained individual supervising operation, access to facility prohibited when center is closed.	\$2,000	7:26A-4.5(b)21	Failure of Class C material operator to comply with 15 month finished compost storage requirement.	\$1,000
7:26A-4.5(a)11	Failure of Class C yard trimming compost operators to attend, within one year of start up, approved composting courses.	\$2,000	7:26A-4.5(b)23-26	Failure of Class C material operator to comply with monitoring and sampling requirements.	\$3,000
7:26A-4.5(a)12	Failure of Class C yard trimming operator to ensure yard trimmings are only received during times when operator is present.	\$2,000	7:26A-4.5(b)27, 28	Failure of Class C material operator to comply with additional recordkeeping requirements.	\$2,000
7:26A-4.5(a)13	Failure of Class C yard trimming operator to ensure all trimmings received are removed from bags, boxes.	\$2,000	7:26A-4.5(c)1	Failure of Class C operator to comply with labeling requirements.	\$2,000
7:26A-4.5(a)14	Failure of Class C yard trimming operator to initiate processing of incoming materials containing grass, within the working day.	\$2,000	7:26A-4.5(c)2	Failure of Class C operator to comply with compost utilization requirements.	\$2,000
7:26A-4.5(a)15i	Failure of Class C yard trimming operator to moisten, without excess runoff, dry yard trimmings prior to windrow formation.	\$2,000	7:26A-5.1(a)	Failure to ensure no shearing, shredding, baling or other actions which could cause release of refrigerant fluid to take place, occurs prior to recovery of such fluid.	\$5,000
7:26A-4.5(a)15ii	Failure of Class C yard trimming operator to position windrows perpendicular to ground surface contours.	\$2,000	7:26A-5.1(b)	Failure to recover refrigerant fluid in a manner such that no venting of refrigerant fluid occurs.	\$5,000
7:26A-4.5(a)15iii	Failure of Class C yard trimming operator to install windsock.	\$1,000	7:26A-5.1(c)	Failure to deliver recovered refrigerant fluid to a facility which has agreed to reprocess the fluid or, if such arrangements cannot be made, failure to store or dispose of the recovered fluid in accordance with applicable rules and regulations.	\$5,000
7:26A-4.5(a)15iv	Failure of Class C yard trimming operator to comply with windrow composting requirements.	\$2,000	7:26A-6.4(d)2	Failure of generator to ensure used oil is stored only in tanks, containers, or unit subject to N.J.A.C. 7:26G.	\$3,000
			7:26A-6.4(d)3	Failure of generator to ensure used oil storage units are in good condition and not leaking.	\$3,000
			7:26A-6.4(d)4	Failure of generator to comply with used oil labeling requirements.	\$2,000
			7:26A-6.4(f)	Failure of generator to comply with used oil off-site shipment requirements.	\$2,000

Rule	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
7:26A-6.6(c)	Failure of a used oil transporter to have EPA identification number.	\$2,000		used oil burner facilities that have EPA identification numbers and burns the used oil in a device as identified in N.J.A.C. 7:26A-6.8(b)1.	\$4,000
7:26A-6.6(d)1	Failure of a used oil transporter to comply with deliveries requirements.	\$2,000	7:26A-6.9(c)	Failure of used oil fuel marketer to comply with on-specification used oil fuel requirements.	\$2,000
7:26A-6.6(f)3	Failure of used oil transfer facility to ensure used oil is stored only in tanks, containers, or unit subject to N.J.A.C. 7:26G.	\$3,000	7:26A-6.9(d)	Failure of a used oil fuel marketer to comply with notification requirements.	\$2,000
7:26A-6.6(f)4	Failure of used oil transfer facility to ensure used oil storage units are in good condition and not leaking.	\$3,000	7:26A-6.9(e)	Failure of used oil marketer to comply with tracking requirements.	\$2,000
7:26A-6.6(f)5	Failure of used oil transfer facility to comply with "secondary containment for containers" requirements.	\$3,000	7:26A-6.9(f)	Failure of used oil marketer to comply with Notice requirements.	\$2,000
7:26A-6.6(f)6	Failure of used oil transfer facility to comply with "secondary containment for existing aboveground tanks" requirements.	\$3,000	7:26A-7.2(d)	Failure of small quantity handler of universal waste to comply with waste management requirements.	\$2,000
7:26A-6.6(f)7	Failure of used oil transfer facility to comply with "secondary containment for new aboveground tanks" requirements.	\$3,000	7:26A-7.2(e)	Failure of small quantity handler of universal waste to comply with labeling/marketing requirements.	\$2,000
7:26A-6.6(f)8	Failure of used oil transfer facility to comply with used oil labeling requirements.	\$3,000	7:26A-7.2(f)	Failure of small quantity handler of universal waste to comply with accumulation time limits.	\$2,000
7:26A-6.6(g)	Failure of used oil transfer facility/transporter to comply with tracking requirements.	\$2,000	7:26A-7.2(g)	Failure of small quantity handler of universal waste to comply with employee training requirements.	\$3,000
7:26A-6.7(b)	Failure of used oil processor/re-refiner to comply with notification requirements.	\$2,000	7:26A-7.2(i)	Failure of small quantity handler of universal waste to comply with off-site shipment requirements.	\$2,000
7:26A-6.7(c)1	Failure of used oil processor/re-refiner to comply with preparedness and prevention requirements.	\$5,000	7:26A-7.2(k)	Failure of small quantity handler of universal waste to comply with exporting requirements.	\$2,000
7:26A-6.7(c)2i-v	Failure of used oil processor/re-refiner to comply with contingency plan requirements.	\$5,000	7:26A-7.3(c)	Failure of large quantity handler of universal waste to comply with notification requirements.	\$4,000
7:26A-6.7(e)2	Failure of used oil processor/re-refiner to ensure used oil is stored only in tanks, containers, or units subject to N.J.A.C. 7:26G.	\$3,000	7:26A-7.3(d)	Failure of large quantity handler of universal waste to comply with waste management requirements.	\$4,000
7:26A-6.7(e)3	Failure of used oil processor/re-refiner to ensure used oil storage units are in good condition and not leaking.	\$3,000	7:26A-7.3(e)	Failure of large quantity handler of universal waste to comply with labeling/marketing requirements.	\$4,000
7:26A-6.7(e)4	Failure of used oil processor/re-refiner to comply with "secondary containment for containers" requirements.	\$3,000	7:26A-7.3(f)	Failure of large quantity handler of universal waste to comply with accumulation time limits.	\$4,000
7:26A-6.7(e)5	Failure of used oil processor/re-refiner to comply with "secondary containment for existing aboveground tanks" requirements.	\$3,000	7:26A-7.3(g)	Failure of large quantity handler of universal waste to comply with employee training requirements.	\$4,000
7:26A-6.7(e)6	Failure of used oil processor/re-refiner to comply with "secondary containment for new aboveground tanks" requirements.	\$3,000	7:26A-7.3(i)	Failure of large quantity handler of universal waste to comply with off-site shipment requirements.	\$4,000
7:26A-6.7(e)7	Failure of used oil processor/re-refiner to comply with used oil labeling requirements.	\$3,000	7:26A-7.3(j)	Failure of large quantity handler of universal waste to comply with waste tracking requirements.	\$4,000
7:26A-6.7(f)	Failure of used oil processor/re-refiner to comply with analysis plan requirements.	\$5,000	7:26A-7.3(k)	Failure of large quantity handler of universal waste to comply with exporting requirements.	\$4,000
7:26A-6.7(g)	Failure of used oil processor/re-refiner to comply with tracking requirements.	\$2,000	7:26A-7.4(c)	Failure of universal waste transporter to comply with waste management requirements.	\$3,000
7:26A-6.7(h)	Failure of used oil processor/re-refiner to comply with operating record and reporting requirements.	\$3,000	7:26A-7.4(d)	Failure of universal waste transporter to comply with storage time limits.	\$3,000
7:26A-6.7(i)	Failure of used oil processor/re-refiner to use oil transporter with EPA identification number.	\$3,000	7:26A-7.4(f)	Failure of universal waste transporter to comply with off-site shipment requirements.	\$3,000
7:26A-6.8(b)	Failure of used oil burner facility to comply with burning restrictions.	\$3,000	7:26A-7.4(g)	Failure of universal waste transporter to comply with exporting requirements.	\$3,000
7:26A-6.8(c)	Failure of a used oil burner facility to comply with notification requirements.	\$2,000	7:26A-7.5(b)	Failure of universal waste destination facility to comply with off-site shipment requirements.	\$4,000
7:26A-6.8(e)2	Failure of used oil burner facility to ensure used oil is stored only in tanks, containers, or unit subject to N.J.A.C. 7:26G.	\$3,000	7:26A-7.5(c)	Failure of universal waste destination facility to comply with universal waste tracking requirements.	\$4,000
7:26A-6.8(e)3	Failure of used oil burner facility to ensure used oil storage units are in good condition and not leaking.	\$3,000			
7:26A-6.8(e)4	Failure of used oil burner facility to comply with "secondary containment for containers" requirements.	\$3,000		Administrative Correction in (g)7. See: 23 N.J.R. 3138(a). Amended by R.1993 d.5, effective January 4, 1993. See: 23 N.J.R. 3607(a) (see also 24 N.J.R. 2002(a)), 25 N.J.R. 98(a). Reflects amendments to N.J.A.C. 7:26-7.6 and 9.4. Amended by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a). Amended by R.1996 d.578, effective December 16, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a). In (f)1 and (f)2, amended N.J.A.C. references; in (f)4, amended EXAMPLE; in (g), amended N.J.A.C. references; and added (g)1 through (g) 8.	
7:26A-6.8(e)5	Failure of used oil burner facility to comply with "secondary containment for existing aboveground tanks" requirements.	\$3,000			
7:26A-6.8(e)6	Failure of used oil burner facility to comply with "secondary containment for new aboveground tanks" requirements.	\$3,000			
7:26A-6.8(e)7	Failure of used oil burner facility to comply with used oil labeling requirements.	\$3,000			
7:26A-6.8(f)	Failure of used oil burner facility to comply with tracking requirements.	\$2,000			
7:26A-6.8(g)	Failure of used oil burner facility to comply with notice requirements.	\$2,000			
7:26A-6.9(b)	Failure of used oil fuel marketer to ensure shipments of off-specification used oil is sent only to				

Case Notes

Summary proceedings to enforce agency orders, action brought for alleged violations of Pesticide Control Act. State, Dept. of Environ-

mental Protection v. Larchmont Farms, Inc., 266 N.J.Super. 16, 628 A.2d 761 (A.D.1993), certification denied 135 N.J. 302, 639 A.2d 301.

Administrative hearings concerning collection of penalties were not provided for in Solid Waste Management Act; violator is entitled to collection hearing in Superior Court on due process basis, though not to a preliminary Departmental administrative hearing. Bordentown Twp. Bd. of Health v. Interstate Waste Removal Co., Inc., 191 N.J.Super. 128, 465 A.2d 587 (Law Div.1983).

Hazardous waste generator's failure to respond to discovery request supported dismissal of generator's appeal from penalty assessment. New Jersey Department of Environmental Protection v. Oil Transfer Company, 96 N.J.A.R.2d (EPE) 360.

Failure to remove hazardous waste from manufacturing site within time allowed by Solid Waste Management Law mandates penalty even if violation was unintentional. DEPE v. Plasti-Glas Molded Products, Inc., 96 N.J.A.R.2d (EPE) 135.

Corporate successor to hazardous waste facility was strictly liable for failing to test holding tanks. Department of Environmental Protection v. Warner, 95 N.J.A.R.2d (EPE) 245.

Each shipment of hazardous waste constituted separate violation of regulations governing manifesting and disposing of hazardous waste. Department of Environmental Protection v. Rollins Environmental Services, Inc., 92 N.J.A.R.2d (EPE) 13.

7:26-5.5 Civil administrative penalty determination

(a) The Department shall assess penalties under this section, and not under N.J.A.C. 7:26-5.4 when:

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:26-5.4 would be too low to provide a sufficient deterrent effect as required by the Act; or
2. The violation is not listed under N.J.A.C. 7:26-5.4.

(b) Each violation of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, and any parameter contained therein, pursuant to the Act, shall constitute an additional, separate and distinct violation.

(c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.

(d) For each parameter that is required to be monitored, sampled or reported, the failure to so monitor, sample or report shall constitute an additional, separate and distinct violation.

(e) Where any requirement of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act, may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.

(f) The Department shall assess a civil administrative penalty for violations described in this section on the basis of the seriousness of the violation and the conduct of the violator at the mid-point of the following ranges, unless adjusted pursuant to (i) below.

		SERIOUSNESS		
		Major	Moderate	Minor
CONDUCT	Major	\$40,000- \$50,000	\$30,000- \$40,000	\$15,000- \$25,000
	Moderate	\$30,000- \$40,000	\$10,000- \$20,000	\$3,000- \$6,000
	Minor	\$15,000- \$25,000	\$3,000- \$6,000	\$1,000- \$2,500

(g) The seriousness of the violation shall be determined as major, moderate or minor as follows:

1. Major seriousness shall apply to any violation which:

i. Has caused or has the potential to cause serious harm to human health or the environment; or

ii. Seriously deviates from the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; serious deviation shall include, but not be limited to, those violations which are in complete contravention of the requirement, or if some of the requirement is met, which severely impair or undermine the operation or intent of the requirement;

2. Moderate seriousness shall apply to any violation which:

i. Has caused or has the potential to cause substantial harm to human health or the environment; or

ii. Substantially deviates from the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; substantial deviation shall include, but not be limited to, violations which are in substantial contravention of the requirements or which substantially impair or undermine the operation or intent of the requirement; and

3. Minor seriousness shall apply to any violation not included in (g)1 or 2 above.

(h) The conduct of the violator shall be determined as major, moderate or minor as follows:

1. Major conduct shall include any intentional, deliberate, purposeful, knowing or willful act or omission by the violator;

2. Moderate conduct shall include any unintentional but foreseeable act or omission by the violator; and

3. Minor conduct shall include any other conduct not included in (h)1 or 2 above.

(i) The Department may adjust the amount determined pursuant to (f), (g) and (h) above to assess a civil administrative penalty in an amount no greater than the maximum

amount nor less than the minimum amount in the range described in (f) above, on the basis of the following factors:

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
Deleted reference to Part A permit application.

7:26-5.10 Severability

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this subchapter are declared to be severable.

SUBCHAPTER 6. SOLID WASTE PLANNING REGULATIONS

Subchapter Historical Note

Subchapter 6, Interdistrict and Intradistrict Solid Waste Flow, was renamed Solid Waste Planning Regulations, by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997). R.1997 d.510 re-adopted the provisions of Emergency Amendment R.1997 d.404 without change.

7:26-6.1 Authority

This subchapter is promulgated pursuant to the policies set forth in and the authority delegated to the Department of Environmental Protection by the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Law Review and Journal Commentaries

Environmental Law—Administrative Procedure—Solid Waste. P.R. Chenoweth, 134 N.J.L.J. No. 13, 54 (1993).

Case Notes

An injunction prohibiting enforcement of New Jersey's solid waste flow control statutes, which favored the designation of in-state waste facilities for disposal of locally generated solid waste in violation of the Commerce Clause, prohibited the state department of environmental protection from enforcing any solid waste management plan which required waste to be directed to in-state facility designated without participation of out-of-state competitors. *Union County Utilities Authority v. Bergen County Utilities Authority*, 995 F.Supp. 506 (D.N.J. 1998).

Operator of transfer station and recycling center was entitled to preliminary injunctive relief on commerce clause challenge to constitutional validity of solid waste flow regulations; no showing that relief would dismantle significant portion of existing waste flow scheme. *Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*, D.N.J.1995, 893 F.Supp. 301.

Emergency order issued by Dep't of Environmental Protection and Bd. of Public Utilities redirecting county's solid waste flows from closed landfill to transfer station in Pennsylvania did not exceed territorial jurisdiction of those agencies; DEP and BPU were required to comply with procedural requisites regarding amendment to county waste flow plan. In the *Matter of Certain Amendments to the Adopted and Approved Solid Waste Management Plan of the Camden County Solid Waste Management District*, 214 N.J.Super. 247, 518 A.2d 1105 (App. Div.1986).

Propriety of selection of site for county landfill by board of chosen freeholders. *Twp. Committee of South Harrison Twp. v. Bd. of Chosen Freeholders of Gloucester Cty.*, 213 N.J.Super. 179, 516 A.2d 1140 (Law Div.1985), reversed 210 N.J.Super. 370, 510 A.2d 42 (1986).

Waste flow redirection regulations promulgated in compliance with Supreme Court decision upheld as reasonable and not violative of the Commerce Clause; ultimate waste flow stream redirection decision properly made by Board of Public Utilities; economic repercussion assessment made; trial-type evidentiary hearing on regulations not required. *Elizabeth v. State*, Dept. of Environmental Protection, 198 N.J.Super. 41, 486 A.2d 356 (App.Div.1984).

Former N.J.A.C. 7:26-1.11 through 1.15 specifically directing waste flow streams held beyond legislative authority of the Department; regulations more appropriately the realm of the Board of Public Utilities; Department authorized to provide only general direction to solid waste flow. *A.A. Mastrangelo, Inc. v. Dept. of Environmental Protection*, 90 N.J. 666, 449 A.2d 516 (1982).

Discussion of former N.J.A.C. 7:1-4.2 scheme for determination of out-of-state waste. *Hackensack Meadowlands Development Commission v. Municipal Sanitary Landfill Authority*, 127 N.J.Super. 160, 316 A.2d 711 (Ch.Div.1974); reversed 68 N.J. 451, 348 A.2d 505 (1975), vacated and remanded 97 S.Ct. 987, 430 U.S. 141, 51 L.Ed.2d 224, on remand 73 N.J. 562, 376 A.2d 888 (1977).

Jurisdiction regarding authorization of solid waste facility. In re *Combustion Equipment Assoc's*, 169 N.J.Super. 305, 404 A.2d 1194 (App.Div.1979). Authority of solid waste management districts to direct solid waste to specific disposal facilities (opinions rendered on statutory grounds). *Att'y Gen. Form Op. 1980—No. 3*.

7:26-6.2 Purpose

The New Jersey Department of Environmental Protection has reviewed and approved the adopted solid waste management plans for all 22 of the solid waste management districts in New Jersey. Based on these plans, it is evident that district-based waste planning is required to insure proper solid waste management.

Amended by R.1993 d.508, effective October 18, 1993.

See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted provisions of Emergency Amendment R.1997 d.404 without change.

7:26-6.3 Types of wastes covered

(a) This subchapter applies to all solid waste, as defined in N.J.A.C. 7:26-2.13, with the exception of the following:

1. Bulk liquids and semi-liquids, ID type 72;
2. Septic tank clean-out wastes, ID type 73;
3. Liquid sewage sludge, ID type 74;
4. Dry sewage sludge, ID type 12;

5. Dry industrial waste, ID type 27, but only if such waste is residue from the operations of a scrap metal shredding facility, provided that the operator of the scrap metal shredding facility satisfies the requirements of (a)5i through iv below:

i. The owner/operator of the scrap metal shredding facility shall obtain the Department's approval of a quality control plan for the facility, which ensures that before shredding the motor vehicles, appliances, or source separated, non-putrescible ferrous and non-ferrous metals received by the facility, the facility removes components that could affect the nonhazardous characteristics of the residue from the operations of the facility. As provided in the quality control plan, the facility may reject any motor vehicles, appliances or source separated non-putrescible ferrous and non-ferrous metal if inspection reveals that components that could affect the non-hazardous characteristics of the residue are present. The facility is considered the generator of the components it accepts for processing, and shall dispose of these components in accordance with all applicable laws, orders and regulations (including N.J.A.C. 7:26G, if applicable). The components to be removed include, without limitation, the following:

- (1) Batteries and cable ends;
- (2) Gas tanks;
- (3) Catalytic converters;
- (4) Unspent airbag canisters;
- (5) Transformers;
- (6) PCB capacitors; and
- (7) Fluorescent lighting fixtures;

ii. The owner/operator of the scrap metal processing facility shall obtain the Department's approval of a sampling and analytical plan which insures monitoring of the characteristics of the residue from the operations of the facility, as set forth in N.J.A.C. 7:26G-5 and the most recent edition of the USEPA publication SW-846 "Test Methods for Evaluating Solid Waste-Physical/Chemical Methods," incorporated herein by reference. The operator shall perform sampling and analysis quarterly, including without limitation the Toxicity Characteristic Leaching Procedure (TCLP) parameter as set forth in N.J.A.C. 7:26G-5. The operator shall submit the analysis performed in accordance with the approved sampling to the Division of Solid and Hazardous Waste for classification on January 15, April 15, July 15 and October 15, provided however that if the Department approves less frequent sampling and analysis, the owner/operator shall submit the analysis on the dates specified in the Department's approval of that sampling. Upon a request by the facility and as approved by the Department, the sampling frequency of the approved sampling and analytical plan may be reduced. The owner/operator of the facility shall submit a revised sampling and analytical plan which documents how the accuracy and precision criteria as required in SW-846 will be maintained with a reduced schedule;

iii. On February 15 and August 1 of every year the owner/operator of the scrap metal shredding facility shall submit to the department and to the solid waste district in which the facility is located, a report on forms provided by the Department consistent with the Department's Annual Recycling Tonnage Reporting Manual including the following information:

- (1) The total amount of each type of materials which the facility received in the six-month period ending January 1st and July 1st of every year;
- (2) The total amount of residue disposed of by the facility;
- (3) The total amount of ferrous and non-ferrous metal remaining after shredding; and
- (4) The report shall be submitted to the following:
New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
PO Box 414
Trenton, NJ 08625-0414
Office of Recycling and Planning; and

iv. The scrap metal shredding facility shall either maintain a scale certified under N.J.A.C. 13:47B-1 and provide specific truck load weigh data to the district in which the facility is located, or transport the residue through the district's weighing facilities to be weighed before the residue is transported for disposal;

6. Source separated Class A recyclable material, Class B recyclable material, Class C recyclable material and Class D recyclable material as such terms are defined at N.J.A.C. 7:26A-1.3;

7. Hazardous waste, as defined at N.J.A.C. 7:26G-5; and

8. Non-residentially generated chemically treated wood, such as wood treated with creosote, pentachlorophenol (PCP) or chromated copper arsenate (CCA), or scrap tires that are destined for incineration and/or energy recovery provided that the following conditions are met:

i. The chemically treated wood or scrap tires are separated at the point of generation from other solid waste;

ii. The chemically treated wood or scrap tires transported for incineration and energy recovery are transported by a solid waste transporter licensed under N.J.A.C. 7:26-3, 16 and 16A. Transporters delivering chemically treated wood scrap or scrap tires to an out-of-State power generating incinerator pursuant to (a)8iv(1) below shall submit a tonnage report to the Department at the address specified at (a)8v below by March 1 of each year for the prior calendar year that specifies the total amount of material received, in tons, from New Jersey sources;

iii. Each load of chemically treated wood or scrap tires is accompanied by the waste origin/waste disposal form satisfying the requirements of N.J.A.C. 7:26-2.13(c); and

iv. The chemically treated wood or scrap tires are delivered to one or both of the following:

(1) An out-of-State power generating incinerator authorized or permitted by the receiving state to accept such materials for utilization as fuel; or

(2) An in-State power generating incinerator, including a resource recovery facility, that is approved by the Department to accept such materials for utilization as fuel subject to a review of the facility's operating permit, incoming materials specifications and written narrative explanation of operation. An in-state resource recovery facility that accepts chemically treated wood or scrap tires shall obtain an approved tariff for the receipt of these materials pursuant to N.J.A.C. 7:26H-5 and modify its solid waste facility permit pursuant to N.J.A.C. 7:26-2.6. Each approved in-state power generating facility, with the exception of an in-state resource recovery facility which must report such activity in its facility monthly volume report pursuant to N.J.A.C. 7:26-2.13, shall submit a tonnage report specifying the total amount of chemically treated wood or scrap tires received, in tons, from New Jersey sources, to the Department at the address specified at (a)8v below by March 1 of each year for the prior calendar year.

v. Applications for approval and annual tonnage reports shall be submitted to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
PO Box 414
Trenton, N.J. 08625

Public Notice: Notice of receipt of petition for rulemaking.
See: 23 N.J.R. 2187(c).

Action on Petition for Rulemaking: Amend Type 27 waste which exempts certain classes of waste from interdistrict and intradistrict waste flow orders.

See: 23 N.J.R. 2428(b).

Amended by R.1993 d.27, effective January 4, 1993.

See: 24 N.J.R. 1995(a), 25 N.J.R. 92(a).

If certain conditions are met, exempts the residue from the operation of scrap metal shredding facilities from the waste flow rules.

Emergency Amendment R.1996 d.114, effective January 26, 1996 (operative January 29, 1996, to expire March 26, 1996).

See: 28 N.J.R. 1305(a).

Adopted concurrent proposal, R.1996 d.202, effective March 26, 1996.

See: 28 N.J.R. 1305(a), 28 N.J.R. 2380(a).

Added (a)8 and 9.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a)5ii and (a)7, amended N.J.A.C. references; in (a)6, inserted reference to Class C and Class D materials; and added (a) 8.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Deleted (a)9. Readopted provisions of Emergency Amendment R.1997 d.404 without change.

Administrative change.

See: 30 N.J.R. 3948(a).

Law Review and Journal Commentaries

Environmental Law—Administrative Procedure—Solid Waste. P.R. Chenoweth, 134 N.J.L.J. No. 13, 54 (1993).

7:26-6.4 Informational requirements

Any person registered with the Department for the collection, transportation, and/or disposal of solid wastes affected by this subchapter shall, upon request by the Department, submit, in such form as the Department may deem appropriate, information concerning the sources of wastes collected, and his/her transportation and disposal patterns.

7:26-6.5 (Reserved)

As amended, R.1984, d.4, effective January 17, 1984.

See: 15 N.J.R. 1914(a), 16 N.J.R. 134(a).

(k) substantially amended; (o)11 revised; (p)9-13 added; (v) substantially amended.

As amended, R.1984 d.41, effective February 21, 1984.

See: 15 N.J.R. 1417(a), 16 N.J.R. 367(c).

(m)liii and iv revised.

As amended R.1984 d.474, effective October 15, 1984.

See: 16 N.J.R. 1000(a), 16 N.J.R. 2806(a).

(c)13 deleted; previous (c)14 redesignated (c)111 (l)1 substantially revised.

As amended, R.1984 d.475, effective October 15, 1984.

See: 16 N.J.R. 1149(a), 16 N.J.R. 2808(a).

Substantially amended.

Amended by R.1985 d.317, effective June 17, 1985.

See: 17 N.J.R. 517(b), 17 N.J.R. 1560(a).

(a)8iii added.

Amended by R.1985 d.503, effective October 7, 1985.

See: 15 N.J.R. 517(a), 17 N.J.R. 2388(a).

(k)3 added. This amendment was adopted jointly with the Board of Public Utilities.

Amended by R.1986 d.159, effective May 5, 1986.

See: 17 N.J.R. 2590(a), 18 N.J.R. 983(b).

(p)5i and (p)6i-ii added.

Amended by R.1986 d.164, effective May 5, 1986.

See: 17 N.J.R. 2591(a), 18 N.J.R. 983(c).

Deleted old (d)3 through (d)8 and inserted new (d)3-5.

Amended by R.1987 d.71, effective January 20, 1987.

See: 18 N.J.R. 2171(a), 19 N.J.R. 202(a).

(c) substantially amended.

Amended by R.1987 d.72, effective January 20, 1987.

See: 18 N.J.R. 1773(a), 19 N.J.R. 202(b).

(d) substantially amended.

Amended by R.1988 d.357, effective August 1, 1988.

See: 19 N.J.R. 1142(a), 20 N.J.R. 1910(a).

The amendments to this section were jointly adopted with Public Utilities. The section was substantially amended.

Amended by R.1989 d.308, effective June 5, 1989.

See: 20 N.J.R. 1048(a), 21 N.J.R. 1558(a).

The amendments were jointly adopted with the Board of Public Utilities. Essex County solid waste redirected from HMDC 1-C landfill to 3 transfer stations for processing and transfer to out-of-state facilities.

Amended by R.1990 d.324, effective July 2, 1990.

See: 21 N.J.R. 1486(a), 22 N.J.R. 2005(b).

All Bergen County solid waste, except type 10, directed to facility 0239E1SP01.

Amended by R.1991 d.113, effective March 4, 1991.

See: 22 N.J.R. 284(a), 23 N.J.R. 719(a).

The amendments to this section were jointly adopted with the Board of Public Utilities.

Gloucester City added to waste flow list in (d)1. Designated out-of-state facility deleted by name in (d)1, new (d)4i and (d)5. Added new (d)3, redesignated existing (d)3 as (d)4. Recodified (d)4 as (d)5. Replaced (d)5 and (d)6. Added (d)7. Added (g)6. Repealed (h)1-5 and added new (h)1. Recodified and amended (h)6 to (h)2; (h)6i repealed and added new (h)3. Deleted (t)1 through 8. Recodified (t)9 as (t)1. Added (t)1ii. Deleted (t)10 through 14. Added (t)2. Amended by R.1993 d.109, effective March 1, 1993.

See: 24 N.J.R. 3291(a), 25 N.J.R. 991(a).

Waste flows updated and simplified for all counties; amendments adopted solely by DEPE, in accordance with Executive Order No. 38(1991) Reorganization Plan 002(1991).

Repealed by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted Emergency Repeal R.1997 d.404. Section was "District waste flow planning requirements and disposal facility designations".

7:26-6.6 (Reserved)

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended (b); in (c), inserted reference to plan amendment, deleted (d), relating to submission of recommendations; and recodified former (e) as (d).

Repealed by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted Emergency Repeal R.1997 d.404. Section was "Procedure for modification of waste flows pursuant to an amendment to a District Solid Waste Management Plan".

7:26-6.7 (Reserved)

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Repealed by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted Emergency Repeal R.1997 d.404. Section was "Procedure for emergency direction or redirection of solid waste flow".

7:26-6.8 Procedure for applying for a rate for planning related to dry industrial waste, ID type 27, which is residue from a scrap metal shredding facility

(a) The solid waste district in which one or more scrap metal shredding facilities is located may, in accordance with the procedure set forth in N.J.S.A. 48:13A-1 et seq., apply to the Department for the establishment of a rate to recover the reasonable costs of monitoring the generation and disposal of the residue from the operations of such facilities, consistent with the district's interest in planning for the disposal of waste generated within the district. This reasonable rate shall reflect such costs, which include, without limitation, the cost of performing the following activities:

1. Recordkeeping concerning the amount and type of materials received by scrap metal shredding facilities, the amount of residue generated by these facilities, and the amount of ferrous and non-ferrous metal remaining after the shredding process; and

2. Developing a 10 year planning forecast for the future disposal of the residue.

(b) If the scrap metal shredding facility maintains a scale certified under N.J.A.C. 13:47B-1 and provides specific truck load weigh data to the district in which the facility is located, the district's application for a reasonable rate shall not include either the cost of redirecting the residue through the district's facilities solely for the purpose of weighing and recording the residue or the cost of weighing the residue.

New Rule, R.1993 d.27, effective January 4, 1993.

See: 24 N.J.R. 1995(a), 25 N.J.R. 92(a).

7:26-6.9 (Reserved)

New Rule, R.1993 d.508, effective October 18, 1993.

See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Repealed by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted Emergency Repeal R.1997 d.404. Section was "Transporting solid waste between solid waste districts and out-of-State".

7:26-6.10 Modifications to district solid waste management plans; plan amendments

(a) Each plan amendment to a district solid waste management plan or program shall comply with the requirements of this section.

(b) For the purposes of this section, a plan amendment means a modification to the district solid waste management plan, which, if implemented, would have a significant impact on the environment, property rights, public and private funds or the overall solid waste management system. A plan amendment includes, but is not limited to, the following:

1. An interdistrict agreement between two or more districts for the purpose of managing solid waste and/or recyclables on a regional basis;

2. The designation of an in-district weighing facility(ies), if a district chooses. If a district chooses to impose a weighing requirement in order to collect any fees or charges for ensuring the payment of outstanding debt and other fee obligations, the district shall submit, within 180 days, an alternative means of collecting such fees or charges which does not rely on in-district weighing. Following submission of said plan, districts may continue to collect any fees or charges through in-district weighing pending the Department's review of the alternative method of collecting fees or charges.

3. A solid waste disposal contract entered into by the district or authority;

4. The deletion of a solid waste facility other than those listed at N.J.A.C. 7:26-6.11(b)7;

5. The identification of new or a change in the identity of existing designated plan implementation agency or agencies;

6. The method of financing solid waste management in the district, including any mechanism to be instituted by the district for ensuring the payment of outstanding debt and other financial obligations;

7. The inclusion of new facilities, including landfills, resource recovery facilities, transfer stations, materials recovery facilities, solid waste and co-composting facilities, recycling facilities for Class B, Class C and Class D materials, permanent household hazardous waste collection sites, and new regulated medical waste collection, treatment, processing and disposal facilities and compost facilities;

8. An increase in the amount of material received during a 24 hour period at an existing permitted solid waste facility greater than 100 tons per day.

9. A modification to any district solid waste and recycling policy and/or program, including, but not limited to, short and long-term disposal strategies, methods for achieving designated recycling goals and blanket facility inclusion policies; and

10. Any modification to the solid waste management plan as may be identified by the Department.

(c) Upon the development of a solid waste plan amendment, a board of chosen freeholders or the Hackensack Meadowlands Development Commission shall hold a public hearing for the purpose of receiving comments from persons interested in or affected by the adoption of the plan amendment.

1. The designated plan implementation agency shall publish notice of a public hearing concerning the plan amendment in a newspaper of general circulation in the county or district once each week for two consecutive weeks, the second publication date being not less than 10 calendar days prior to the public hearing date. For the purposes of determining weekly publication, Sunday is considered the first day of the week, in conformance with N.J.S.A. 13:1E-23.

2. The notice of the public hearing concerning the plan amendment shall provide a detailed description of the plan amendment and, at a minimum, contain the following information:

- i. The date, time and place of the public hearing;
- ii. The name and address of the district solid waste coordinator;
- iii. When and where the plan amendment can be reviewed; and
- iv. In the case of a facility, a description and the site location, by municipality, street address, lot and block number, the proposed or expanded capacity and the waste types which will be received.

(d) The board of chosen freeholders or the Hackensack Meadowlands Development Commission shall submit to the Department a complete plan amendment which shall include the following:

1. One copy of the adopting ordinance or resolution;
2. Twenty copies of the plan amendment;
3. One copy of the public hearing transcript;
4. One copy of the public notice accompanied by an affidavit of publication issued by the publishing newspaper; and
5. For any plan amendment which proposes to incorporate a facility site, 20 copies of an 8½ inch x 11 inch tax map identifying the location of the site, the street address, and the lot and block numbers.

(e) The plan amendment in (d) above shall be submitted to:

New Jersey Department of Environmental Protection
 Division of Solid and Hazardous Waste
 Bureau of Recycling and Planning
 PO Box 414
 Trenton, N.J. 08625-0414

(f) Upon receipt of a plan amendment submitted pursuant to (d) and (e) above, the Department shall review the plan amendment for completeness. Within 10 working days of receipt of the plan amendment, the Department shall notify, in writing, the entity that submitted the plan amendment whether the plan amendment is complete or incomplete.

(g) The Department shall submit a copy of a complete plan amendment to the Advisory Council on Solid Waste Management in the department, and to the agencies, bureaus and divisions in the Department identified at N.J.S.A. 13:1E-23 for review and recommendations.

(h) Upon review of the plan amendment and upon receipt of recommendations provided pursuant to (f) above, the Department shall approve, modify or reject a plan amendment within 150 days of receipt of a complete plan amendment and shall certify such determination to the board of chosen freeholders or to the Hackensack Meadowlands Commission. If the Department takes no action on a complete plan amendment within 150 days, the plan amendment shall be deemed approved.

New Rule, R.1996 d.578, effective December 16, 1996.
 See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
 Emergency Amendment, by R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).
 See: 29 N.J.R. 4170(a).
 Rewrote (b)2; and in (b)6, inserted reference to mechanism for ensuring payment of obligations.
 Adopted concurrent proposal, R.1997 d.510, effective October 31, 1997.
 See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Administrative change.
See: 30 N.J.R. 3948(a).

7:26-6.11 Administrative actions concerning a district solid waste management plan

(a) Each administrative action taken relative to a district solid waste management plan or program shall comply with the requirements of this section.

(b) For the purposes of this section, a solid waste management plan administrative action includes, but is not limited to, the following:

1. The use of Resource Recovery Investment Tax (RRIT) grant moneys and/or the development of the associated disbursement schedules;

2. The designation of or change to prior approved truck routes to or from solid waste facilities;

3. The inclusion of new recycling facilities for processing Class A or Class C recyclable materials, or replacement units at existing regulated medical waste facilities;

i. The inclusion and/or expansion of recycling and compost facilities shall be, at the discretion of the district, subject to any previous blanket inclusion policies approved by the Department and shall be undertaken by the district in accordance with the approved district solid waste management plan. This paragraph is intended to supplement and not replace any previously approved blanket inclusion policy for a district.

ii. Any blanket inclusion amendment approved by the Department shall contain a provision requiring, among other things, notification to the public as to the location for the receipt of written comments and the starting and ending dates for the written comment period.

4. The expansion of capacity of any size, other than that specified at N.J.A.C. 7:26-6.10(a)8, for any regulated solid waste facility;

5. The modification of an existing facility including acceptance of additional waste types, on-site operational changes and expansions of facility buffer zones or expansions into buffer zones for ancillary operational activities;

6. The modification of a recycling program, including the designation of additional materials for recycling, procurement strategies, market strategies, public education, private incentive programs, waste audit strategies, yard waste programs, per container programs, and enforcement strategies;

7. The deletion of any facility which is included in the plan for more than two years but for which a complete permit application has not been made, or the deletion of any facility which is included in the plan but has not been in operation for more than two years;

8. Unless specifically noted by the Department within a plan certification document, any information collected and/or submitted by the district plan implementation agency, including, but not limited to, solid waste studies, reports, data collection, compost inventories, and weekly waste averaging (when the daily rate has already been included in the plan);

9. The reaffirmation of an existing district solid waste disposal strategy subsequent to the final disposition of the *Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*, Civil Action No. 93-cv-02669 (D.N.J. May 1, 1997) case, provided that the plan implementation agency has held a public hearing on such reaffirmation for the purpose of receiving comments from persons interested in or affected by the amendment. Notice of such hearing shall be published in newspapers of general circulation in the district not less than 10 days prior to the hearing and shall include the information set forth in (c)2 above.

10. Any other administrative action as may be identified by the Department.

(c) Nothing contained in this section shall be construed to subrogate the district solid waste management planning process. The board of chosen freeholders or the Hackensack Meadowlands Development Commission, in its discretion, may hold a public hearing prior to the adoption of any administrative district solid waste plan action.

(d) The board of chosen freeholders or the Hackensack Meadowlands Development Commission or the designated implementation agency of the affected district shall submit to the Department a letter that describes in detail the administrative action to be taken relative to the district solid waste management program.

1. The letter concerning the administrative action shall be submitted to the address at N.J.A.C. 7:26-6.10(e)6.

(e) Upon receipt of a letter describing the administrative action, submitted pursuant to (d) above, the Department shall review the information provided. Within 10 working days of receipt of the letter, the Department shall notify, in writing, the entity that submitted the letter concerning the administrative action of its receipt of such letter.

(f) The Department shall approve an administrative action within 30 working days of receipt of the letter describing the administrative action pursuant to (d) above, unless it determines that the described action is subject to the requirements for a solid waste management plan amendment pursuant to N.J.A.C. 7:26-6.10. In the event the Department fails to respond to a letter concerning an administrative action within the 30 day period, the administrative action shall be deemed approved.

New Rule, R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Emergency New Rule, R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).

See: 29 N.J.R. 4170(a).

Inserted new (b)9 and recodified former (b)9 as (b)10.

Adopted concurrent proposal, R.1997 d.510, effective October 31, 1997.

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

7:26-6.12 Compliance with district solid waste management plan

(a) Any contract or renewed contract for solid waste collection and/or disposal which is inconsistent with an

amendment to the applicable solid waste management plan and which was executed prior to the approval of the such amendment and subsequent to the effective date of this chapter, and which is for a term in excess of one year, shall be renegotiated in order to bring such contract into conformance with the provisions of the amended solid waste management plan and this chapter.

1. Any solid waste collection operation or disposal facility registered by the Department and operating pursuant to a contract or a renewed contract as described in this subsection shall be deemed to be in violation of the Act and this chapter and of the district solid waste management plan if such renegotiation is not completed within 90 days of the effective date of this amendment, unless such solid waste collection operation or disposal facility applies to the Department, and obtains, for good cause shown, an extension of time to complete such renegotiation.

(b) All solid waste facility operators and transporters registered with the Department shall operate in compliance with the applicable district solid waste management plan as well as any amendments to and/or approved administrative actions concerning such plan. Any facility operator or transporter who fails to comply with the applicable solid waste management plan as well as any amendment to or approved administrative actions concerning such plan shall be deemed to be in violation of the Act and this chapter and shall be subject to the applicable penalties provided under the Act and this chapter, and any other applicable law or regulation.

New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

SUBCHAPTERS 7 THROUGH 14. (RESERVED)

SUBCHAPTER 14A. RESOURCE RECOVERY AND SOLID WASTE DISPOSAL FACILITY LOANS

7:26-14A.1 Scope

This subchapter shall constitute the rules of the Department of Environmental Protection governing the disposition of appropriations from the Resource Recovery and Solid Waste Disposal Facility Fund established pursuant to P.L. 1985, c.330, c.331 and c.335. Additionally P.L. 1985, c.335 appropriated to the Resource Recovery and Solid Waste Disposal Facility Fund \$50,000,000 from the Natural Resources Bond Fund established pursuant to P.L. 1980 c.70. Appropriations from the Fund shall be used for loans to local government units for the construction and operation of resource recovery facilities and environmentally sound sanitary landfill facilities or other approved solid waste facilities which are identified and included in a district solid waste management plan approved pursuant to the provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. Any loan agreements which are executed pursuant to P.L.

1985 c.330, c.331 and c.335 after June 20, 1988, shall be in accordance with this subchapter.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Loan usage amended to include operation of specified facilities; and deleted provision relating to conforming specified loan agreements to N.J.A.C. rule.

7:26-14A.2 Construction

This subchapter shall be construed so as to permit the Department to discharge its statutory functions and to effectuate the purposes of the law.

7:26-14A.3 Purpose

(a) This subchapter is promulgated for the following purposes:

1. To implement the purposes and objectives of the Natural Resources Bond Act, P.L. 1980, c.70, and the Resource Recovery and Solid Waste Disposal Facility Bond Act, P.L. 1985, c.330, c.331, and c.335;

2. To establish policies and procedures for the distribution of funds appropriated from the Resource Recovery and Solid Waste Disposal Facility Fund as loans to local government units within the State to help defray the costs of constructing and operating resource recovery facilities and environmentally sound sanitary landfill facilities and other approved solid waste facilities. This includes local government unit contracts with vendors who contract with the local government unit to undertake such projects to service the local government unit's recovery and disposal needs;

3. To protect the public and the State by insuring that funds appropriated are spent in a proper manner and for the intended purposes;

4. To assure that the distribution and use of funds are consistent with the laws and policies of the State;

5. To establish minimum standards of conduct to prevent conflicts of interest and to insure proper administration of loans; and

6. To establish accounting procedures for the administration of loans.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

(a)2 amended to include operation of specified facilities.

7:26-14A.4 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"1980 Act" means the Natural Resources Bond Act of 1980, P.L. 1980, c.70.

"1985 Act" means the Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985, P.L. 1985, c.330, c.331 and c.335.

"Approved solid waste facility" means and includes the plants and structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any local government unit, including materials recovery facilities, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal and/or recovery of solid waste.

"Commissioner" means the Commissioner of the Department of Environmental Protection or the Commissioner's designee;

"Construct" and "construction" means, in addition to the usual meanings thereof, the designing, engineering, financing, extension, repair, remodeling, or rehabilitation, or any combination thereof, of a resource recovery facility or an environmentally sound sanitary landfill facility or any component part thereof.

"Department" means the Department of Environmental Protection.

"Division" means the Division of Solid and Hazardous Waste in the Department.

"Environmentally sound sanitary landfill facility" means a sanitary landfill facility which is equipped with a liner or liners, a leachate control and collection system, and a groundwater pollution monitoring system, or any other pollution control or other engineering device required by the Department pursuant to law or rule and regulation, and which is identified and included in a district solid waste management plan pursuant to the provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1, et seq.

"Escrow account" means the account established with the escrow bank or the Department for receipt, investment and disbursement of the Fund loan monies.

"Escrow agent" means the entity or individual responsible for authorizing disbursements from the escrow account pursuant to the terms of the Fund loan agreement and the escrow agreement.

"Escrow bank" means the financial institution designated as the escrow bank pursuant to an escrow agreement entered into by the borrower.

"Full scale operation" means the point of time at which a facility becomes commercially available to operate at the facility for which it was designed.

"Fund" means the Resource Recovery and Solid Waste Disposal Facility Fund established pursuant to P.L. 1985, c.330.

"Loan project officer" means, with respect to the local government unit or the State, the person designated to communicate, negotiate and receive all notices and communications relating to the loan agreement or the project.

"Local government unit" means a county, municipality, municipal or county utility authority, an implementing agency pursuant to an approved Solid Waste Management Plan, or any other political subdivision of this State authorized to construct, operate, or arrange for the construction or operation of a resource recovery facility or an environmentally sound sanitary landfill facility.

"Project" means any work relating to the construction or operation of a resource recovery facility or an environmentally sound sanitary landfill facility or an approved solid waste facility by a local government unit.

"Project cost" means the expenses incurred in connection with:

1. The acquisition by purchase, lease, or otherwise of a project; the development of a project; and the construction of any project authorized by the 1985 Act;
2. The acquisition by purchase, lease or otherwise and the development of any real or personal property for use in connection with any project authorized by the 1985 Act, including any rights or interests therein;
3. The execution of any agreements and franchises deemed by the Department to be necessary or useful and convenient in connection with any project authorized by the 1985 Act;
4. The procurement of engineering, inspection, planning, legal, financial, geological, hydrological or other professional services, including the services of a bond registrar or an authenticating agent;
5. The issuance of bonds, or any interest or discount thereon;
6. The administrative, organizational, operating or other expenses incident to the financing, completing and placing into service of projects authorized by the 1985 Act or any related contractual arrangements for providing resource recovery or environmentally sound sanitary landfill facility services;

“Residential source” means houses and apartment buildings with nine or fewer dwelling units, yards and vehicles used for personal transportation.

“State Fund” means the State Recycling Fund established by Section 5(a) of the Act.

“State Program Fund” means the portion of the State Fund specified by Section 5(b)(3) of the Act.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added “applicant”; and amended several definitions.

7:26-15.5 Application and award procedures for Recycling Tonnage Grants

(a) Eligible applicants for Recycling Tonnage Grants shall be limited to municipalities and/or counties in the State of New Jersey, except that a municipality or county may, upon vote of the appropriate governing body, authorize a regional recycling coalition to apply on its own behalf, provided that:

1. All materials recycled within a municipality or county and claimed for the purposes of this Act shall be submitted on one application form.
2. The applicant has conformed to all restrictions, prohibitions and obligations of the Act as set forth therein and in this subchapter, including but not limited to the following:
 - i. Grant funds shall not be used for the purchase, construction or operation of equipment or machinery that will be used to bale waste paper or to shear, bale or shred ferrous or non-ferrous metals.
 - ii. No municipality shall enact an ordinance which requires that recyclable materials already collected and recycled under a contract between a commercial source and a recycling business or industry be collected instead by the municipality or its agent, if such contract is in existence on the effective date of such ordinance.

(b) Applications for Recycling Tonnage Grants shall be accepted by the Department between January 1 and April 30 of each grant year. Applications shall be made on forms provided by the Department, or by electronic means as approved by the Department and shall be submitted to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Office of Recycling and Planning
CN 414
Trenton, New Jersey 08625-0414

(c) Applicants shall be entitled to receive Recycling Tonnage Grants based on the tonnage of recyclable material generated by and recovered for recycling from residential and/or commercial sources within the municipality.

1. Recyclable material generated by residential and commercial sources shall include:

- i. All types and grades of paper and paperboard products;
- ii. All types and grades of glass;
- iii. Ferrous and non-ferrous metals;
- iv. Textiles;
- v. Food;
- vi. Yard materials;
- vii. Plastics;
- viii. Rubber products;
- ix. Used oil; and
- x. Additional solid or liquid materials which are non-hazardous which are approved by the Department upon application by the applicant.

2. Only recyclable material which is collected in accordance with all applicable regulation and permit procedures, and documented in accordance with (d) below using one or more of the following procedures shall be considered to be generated within the applicant’s jurisdiction and eligible for the purposes of this grant:

- i. Curbside pick-up: When the recyclable materials are separated by the source and collected at the curbside or on the premises by a public agency or its contractor, a commercial recycling business, or a volunteer agency, the material shall be credited to the municipality in which the collection occurs.
- ii. Drop-off centers: When the recyclable materials are separated by the source and delivered to a municipal or volunteer drop-off center, the material shall be credited to the municipality in which the center is located. However, when the center is sponsored by a county or other regional agency and is specifically designated to serve more than one municipality, the operator(s) of the center shall allocate the quantity of material recycled among the participating municipalities based on the best available data.
- iii. Transfer stations and resource recovery facilities: In order for materials separated from mixed solid waste at a transfer station or resource recovery facility to qualify, the approved district solid waste district management plan shall specifically designate such facility to be the recipient of an applicant’s solid waste, and shall specifically require that the separation and recovery of recyclables shall occur prior to fuel production or disposal. In these instances, the applicants which generate the material shall be proportionally credited for recycling tonnage based on the best available data.
- iv. Markets: When recyclable materials are separated and delivered by the source directly to a market, the

municipality in which such materials are generated shall receive credit for the tonnage recycled.

3. Recyclable material which is generated and collected as specified in (c)1 and (c)2 above shall not be eligible for the purposes of this grant if it is:

- i. Landfilled;
- ii. Dumped;
- iii. Burned or otherwise used for direct energy recovery;
- iv. Converted to a fuel or fuel product, except as specifically permitted by the Department upon application by an applicant; or
- v. Subject to a deposit or tax imposed by the county or municipality to ensure its return to a collection center.

(d) The tonnage of recycled materials claimed by the applicant shall be accurately reported to the Department in accordance with the provisions of N.J.A.C. 7:26-2.13. Records verifying tonnage claimed shall be maintained by the applicant for a minimum of five years following each grant period. For the purpose of this grant, the following records shall be acceptable subject to review and approval by the Department on a case-by-case basis:

1. Copies of sales or weight slips showing the type and quantity of recyclable materials delivered, the name of the collector, processor or converter to whom the materials were sold or delivered and the date of sale or delivery of the material;
2. A written statement from the commercial generator supported by verifiable information including the type and quantity of material sold to the collector or market for recycling during the grant period, the name and address of the collector or market and the date of the sale of the material;
3. A written statement from a market, transfer station or resource recovery facility declaring the amount of recyclable material originating in and obtained from each municipality and explaining the procedure used to allocate materials among contributing municipalities; or
4. In the case of food and yard materials converted to and used for feed, compost, mulch or fertilizer, a written estimate of the quantity of materials collected and recycled and an explanation of the procedure used by the municipality to estimate the tonnage.

(e) The size of the Recycling Grants to be awarded to each municipality shall be determined in the following manner:

1. Grants awarded shall be based on the number of tons of eligible recyclable material sold or distributed in accordance with (c) and (d) above during the preceding calendar year and shall be calculated in accordance with the following formula, provided that no municipality shall receive more than \$10.00 per ton:

$$\text{Award} = R \times T_m / T_s$$

where Award = Dollar value of award to a given municipality or county for the preceding calendar year

R = Total dollar amount allocated to the Recycling Grant Fund as of January 1, in the year in which the application for a Recycling Grant is submitted.

T_s = Total tonnage of eligible recyclable material collected within the State during the preceding calendar year and claimed by all municipalities and counties.

T_m = Total tonnage of eligible recyclable material recycled within a given municipality or county during the preceding calendar year.

(f) Applications shall be made on forms provided by the Department and shall include the following:

1. The name and address of the applicant;
2. A detailed breakdown of the materials collected, including type and quantity;
3. Certifications regarding:
 - i. Tonnage recycled;
 - ii. Origin of materials; and
 - iii. Non-diversion from a pre-existing commercial recycling program.
4. Other information as required by the Department.

(g) Recycling Tonnage Grants may be credited to the general treasury of the applicant and may be used for recycling activities or other purposes subject to the restrictions in (a)2 above.

As amended, R.1984 d.75, effective March 19, 1984.

See: 16 N.J.R. 6(a), 16 N.J.R. 535(b).

Jointly adopted with the Department of Energy. (b): March 15 was February 15.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Deleted (a)2iii and (a)2iv; in (d) inserted N.J.A.C. reference; and substantially amended (e) and (f).

7:26-15.6 Application and award procedures for Recycling Business Loans

(a) This portion of the Act shall be administered jointly by the Department and the EDA.

(b) Eligible applicants for Recycling Business Loans shall be limited to recycling businesses and industries located in or planning to locate in New Jersey which are engaged in converting recyclables into a raw material, other than energy, processing recyclables to meet final use specifications, or separating commingled recyclables for resale to a market. Applicants shall conform to all restrictions, prohibitions, and obligations of the Act, applicable EDA regulations and guidelines, and all other relevant acts as set forth therein and in this subchapter.

(c) Applications may be made at such times as announced and on such forms as provided by the Department and shall be submitted in triplicate to:

New Jersey Department of Environmental Protection
 Division of Solid and Hazardous Waste
 CN 414
 Trenton, New Jersey 08625-0414

(d) Loans and loan guarantees may be used for the creation or expansion of any legitimate commercial activity involved with the collection, separation, transportation, processing or conversion of recyclable materials as determined by the Department and EDA.

(e) Loans and loan guarantees shall be awarded in accordance with such terms and conditions as set forth by the Department and EDA. No single applicant or project may receive a loan or loan guarantee for less than \$50,000 or for more than \$500,000. The maximum may be exceeded for certain projects which are deemed necessary by the Department in order to reach the State's recycling goals set forth in the State Solid Waste Management Plan Update: 1993-2000 (Update).

(f) Loans and loan guarantees shall be awarded on a competitive basis.

1. The application shall demonstrate, at a minimum, that:

i. The project promotes the goals and objectives set forth in the State Recycling Plan and applicable district solid waste management plans;

ii. All necessary permits have been obtained or applied for;

iii. The goals, objectives and implementation strategy of the project are clearly stated;

iv. The type, quantity and value of recyclable material to be recovered by the project are reasonable in relation to the investment required;

v. The applicant is able to repay the loan;

vi. The applicant has previous experience in recycling;

vii. The applicant has the ability to manage the project;

viii. The project substantially increases the quantity of recyclable material removal from the waste stream for recycling; and

ix. Only source separated recyclable materials will be received, stored, processed or transferred at the facility.

(g) Applications shall be made on forms provided by the Department and EDA and shall include, but not be limited to, the following:

1. The name and address of the applicant;

2. The names and addresses of the applicant's principal owners and officers;

3. A detailed project cost breakdown explaining how the funds will be incorporated in the total budget for the entire project; and

4. A description of the type and quality of material to be recycled as a result of the loan or loan guarantee;

(h) The Department shall deny an application for a low-interest recycling business loan if the applicant:

1. Does not submit information required pursuant to (f) above;

2. Does not correct any deficiencies in information submitted pursuant to (f) above within 60 days of receipt of a letter specifying such deficiencies;

3. Does not submit the appropriate fee;

4. Has been denied a license or permit by the Department pursuant to this chapter;

5. Has violated any environmental protection law or regulation, civil or criminal, of this State or any other state or any Federal environmental protection law or regulation, civil or criminal; or

6. Fails to comply with any lawful order of the State. (i) Applicants receiving loans or loan guarantees shall file an annual status report with the Departments for as long as the loan is outstanding, describing the progress being made towards the goals and objectives set forth in the application.

(j) The loan maturity period shall be for a period not to exceed 10 years. The interest rate on each loan when issued shall be established at three points below the prime rate, but in no case shall be less than five percent.

(k) The applicant for the loan or loan guarantee shall pay the following fees:

1. Loan Application Review—\$125.00 per application, payable at the time of the application.

2. Loan Closing and Technical Review—\$1,441 per loan, payable at closing.

3. Loan Management—\$626.00 per loan, payable at the time of closing.

4. Closing fee—\$600.00 per loan, payable at time of closing.

Amended by R.1991 d.368, effective July 15, 1991 (operative July 15, 1991).

See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

Added (i).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Amended (b) to include business planning to relocate and specified applicable recycling activities; in (e), amended loan and loan guarantee amounts; substantially amended (f); inserted new (h) and (j); and recodified former (h) and (i) and (i) and (k).

7:26-15.7 Application and award procedures for Planning and Program Grants and Education Grants

(a) Subject to further restrictions contained in (c) below the following shall be eligible to apply for and receive either or both Program and Planning Grants and Education Grants, unless specifically limited to Program and Planning Grants alone or Education Grants alone:

1. Counties, provided that the county has a recycling coordinator during the grant period;
2. Municipalities, provided that the project is not inconsistent with the appropriate county solid waste district management plan(s);
3. Regional recycling coalitions, provided that an ordinance or resolution, as appropriate authorizing application and funding has been approved by the appropriate governing bodies of the coalition members, and that the project is not inconsistent with the appropriate county solid waste district management plan(s);
4. Non-profit groups involved directly with the implementation of recycling or litter abatement programs, provided that the project is not inconsistent with the appropriate county solid waste district management plan(s). Non-profit groups shall be eligible to apply only for Education Grants.

(b) Applications for Planning and Program Grants and Education Grants shall be made at such time as announced on such forms provided and in accordance with any guidelines issued by the Department. Applications shall be submitted to:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of Licensing and Grants

CN 414

Trenton, New Jersey 08625-0414

1. The applicant shall submit a spending plan setting forth the proposed expenditures for which a Planning and Program Grant and/or the Education Grant will be used.
2. The Department shall review the spending plan for consistency with the recommended uses set forth in (d) and (e) below in accordance with the criteria set forth at (f)1 through 3 below, and shall approve the spending plan and award grant moneys unless the spending plan proposes expenditures inconsistent with (d) and (e) below or unless the proposed expenditures fail to satisfy the criteria set forth at (f)1 through (3) below.

(c) Planning and Program Grants and Education Grant applications shall be subject to the following minimum amounts. The Department shall issue such guidelines as are necessary to encourage counties to include provisions in the applications that will allocate grant monies to municipalities which require less than the minimum amounts.

1. For Planning and Program Grant applications, \$5,000;
2. For Education Grant applications, \$2,000.

(d) Planning and Program Grants may be used for any legitimate administrative, planning or operating expenses associated with publicly sponsored recycling programs, including but not limited to:

1. Staff salaries and fringe benefits;
2. Office expenses;
3. Equipment purchases;
4. Enforcement; and
5. Construction of facilities.

(e) Education Grants may be used for any legitimate expenditures associated with recycling and litter abatement publicity, information and education programs, including:

1. The project will further the goals and objectives of the State Recycling Plan;
2. The project's goals, objectives and implementation strategy are clearly stated;
3. The project is practical and has a high probability of success;
4. The value of the materials to be recovered will be comparable to the size of the grant; and
5. The project substantially increases the quantity of recyclable materials removed from the waste stream and actually recycled.

(f) Planning and Program Grants and Education Grants shall be awarded based on the Department's assessments of factors which shall include but not be limited to the following:

1. The ability of the applicant to successfully implement the proposed project;
2. The relative contribution that the proposal will make toward achieving the State's recycling goals; and
3. The cost effectiveness and innovativeness of the proposed projects.

(g) Applicants receiving either Planning and Program Grants or Education Grants shall file annual progress reports with the Department during the grant year and for two years following receipt of the grant. Applicants who receive a Recycling Tonnage Grant pursuant to N.J.A.C. 7:26-15.5 shall be deemed to have satisfied this requirement.

As amended, R.1984 d.75, effective March 19, 1984.

See: 16 N.J.R. 6(a), 16 N.J.R. 535(b).

Jointly adopted with the Department of Energy substantially amended.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added (b)1 and (b)2.

7:26-15.8 Application and award procedure for Supplementary Projects

(a) The Department may, in its discretion, make available any or all of the monies in the Program and Planning Fund and in the Education Fund which are not used for the grants specified in N.J.A.C. 7:26-15.7 for Supplementary Projects involving recycling research, program development, program implementation and other related activities. Supplementary Projects may be developed by the Department on its own initiative or in response to proposals submitted by public or private entities.

(b) Awards for Supplementary Projects shall be made giving due consideration to the qualifications of the applicants in view of the nature of the projects. Awards may be made by the Department as grants, contracts, or other forms of disbursement as appropriate for the particular Supplementary Project.

R.1983 d.119, eff. April 18, 1983.

See: 14 N.J.R. 1346(a), 15 N.J.R. 622(d).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), amended N.J.A.C. reference.

7:26-15.9 Execution of award documents

(a) As concerns Recycling Tonnage Grants, the Department shall prepare and transmit an original and three copies of the award document to the applicant. The applicant shall execute the award document and return it to the Department with an ordinance or resolution of the appropriate governing body, authorizing the signing of the document, naming the person authorized to sign the document and committing the applicant to use the funding in accordance with the terms and conditions of the award document, this subchapter and the Act.

(b) As concerns Planning and Program Grants and Education Grants, the applicant shall submit the spending plan with an ordinance or resolution of the appropriate governing body, authorizing the signing of the spending plan, naming the person authorized to sign the spending plan and committing the applicant to use the funding in accordance with the terms and conditions of the spending plan, this subchapter and the Act.

(c) As concerns loans or loan guarantees made pursuant to the Act, the applicant shall execute the award document. The award document shall be executed by the person(s) having authority to commit the entity receiving the monies to the terms and conditions of the loans or loan guarantees.

(d) The award document shall be deemed to incorporate all requirements, provisions, and information in this subchapter, the Act and all documents and papers submitted to the Department in the application process.

(e) At the time of execution of the award document by the Department and the applicant, the grant, loans or loan guarantees shall become effective and shall constitute an obligation on the Recycling Fund in the amount and for the purposes stated in the award document.

As amended, R.1983 d.119, effective April 18, 1983.

See: 14 N.J.R. 1346(a), 15 N.J.R. 622(d).

Formerly codified as 7:26-15.8.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Inserted new (b), recodified former (b) through (d) as (c) through (e).

7:26-15.10 Unused monies

(a) All monies which remain unused or unexpended by the Department at the close of the calendar year or which have been withheld or rescinded by the Department shall remain with or be returned to the Fund.

1. Unused monies derived or allocated from the Recycling Grant Fund, Recycling Business Fund or Education Fund shall be added to their respective Funds.

2. Unused monies derived or allocated from the State Program Fund and Planning and Program Fund may be added to their respective funds or to any of the funds in (a)1 above, as the Department in its discretion deems appropriate.

As amended, R.1983 d.119, effective April 18, 1983.

See: 14 N.J.R. 1346(a), 15 N.J.R. 622(d).

Formerly codified as 7:26-15.9.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

7:26-15.11 Debarment

(a) Any person or corporation who is debarred, suspended or disqualified from State contracting pursuant to N.J.A.C. 7:1D-2 shall be ineligible to receive State grants, loans or loan guarantees under this subchapter, whether directly or through a contract with a recipient of the State Fund monies.

(b) Recipients shall insert in every contract for work on a project a clause stating that the contractor may be debarred, suspended or disqualified from contracting with the recipient if the contractor commits any of the acts listed in N.J.A.C. 7:1D-2.2.

(c) Bid specifications prepared by the recipient shall require submission of a sworn statement by the bidder, or an officer or partner of the bidder, indicating whether or not the bidder is, at the time of the bid, included on the State Treasurer's List of Debarred, Suspended and Disqualified Bidders as a result of action by a State agency other than the Department.

(d) Any person included on the Treasurer's List as a result of action by a State agency other than the Department, who is or may become a bidder, or any contractor who is or will be funded by a grant or loan under this subchapter may present information to the Department, indicating why this section should not apply to such person. If the Commissioner determines that an exception is essential to the public interest and files a finding thereof with the Attorney General, the Commissioner may grant such exception in keeping with the provisions of N.J.A.C. 7:1D-2.9.

(e) The Department may suspend or debar any such person, or take such other action as may be appropriate pursuant to N.J.A.C. 7:1D-2.

As amended, R.1983 d.119, effective April 18, 1983.
See: 14 N.J.R. 1346(a), 15 N.J.R. 622(d).

Formerly codified as 7:26-15.10.
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
Administrative change.
See: 32 N.J.R. 1796(a).

7:26-15.12 Discriminatory practices

The applicant shall certify that its contractors and their subcontractors are in compliance with the discrimination and affirmative action provisions of N.J.S.A. 10:2-1 to 10:2-4 and the rules and regulations promulgated pursuant thereto.

As amended, R.1983 d.119, effective April 18, 1983.
See: 14 N.J.R. 1346(a), 15 N.J.R. 622(d).
Formerly codified as 7:26-15.11.

7:26-15.13 Procedure for withholding or rescission of grants

(a) The Department may, in addition to any other rights or remedies available pursuant to law, withhold a grant or any portion thereof, for good cause which shall include, but not be limited to, the following:

1. Failure to comply with the provisions of this subchapter, the Act or other applicable State laws or regulations;
2. Failure to meet any condition or specification of the grant;
3. Submission of false or misleading information to the Department.

(b) The Department shall give written notice to the recipient of its intent to withhold or rescind the grant in whole or in part.

(c) The Department shall afford the recipient an opportunity for consultation prior to withholding or rescission of the grant.

(d) The Department, may, after affording the recipient opportunity for consultation, withhold or rescind the grant in whole or in part. The withhold or rescission shall be in writing and effective on the date such action is taken.

(e) The determination to withhold or rescind a grant shall be solely within the discretion of the Department.

As amended, R.1983 d.119, effective April 18, 1983.
See: 14 N.J.R. 1346(a), 15 N.J.R. 622(d).
Formerly codified as 7:26-15.12.
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

7:26-15.14 Return of grants

(a) The recipient of a grant which has been withheld or rescinded by the Department shall refund or credit to the Department the amount of grant monies withheld or rescinded.

(b) The Department shall, upon receipt of the monies, return same to the appropriate Fund in accordance with the provisions of N.J.A.C. 7:26-15.10.

As amended, R.1983 d.119, effective April 18, 1983.
See: 14 N.J.R. 1346(a), 15 N.J.R. 622(d).
Formerly codified as 7:26-15.13.
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

7:26-15.15 Procedure for termination of loans and loan guarantees

(a) Loans and loan guarantees authorized or created by the Act may be terminated by the EDA according to the procedures and guidelines established by that agency in the event of default by the holder of the loan. The term default shall include, but not be limited to:

1. Non-payment or failure to make timely repayment of the loan;
2. Bankruptcy by the holder of the loan;
3. Use of loan or items financed by the loan for purposes other than those stated in the application;
4. Failure to comply with the provisions of this subchapter, the Act or other applicable State laws or regulations; or
5. Submission of false or misleading information to the Department or EDA.

(b) In the event that a loan or loan guarantee is terminated the monies shall be returned to the Recycling Business Loan Fund.

As amended, R.1983 d.119, effective April 18, 1983.
See: 14 N.J.R. 1346(a), 15 N.J.R. 622(d).

Formerly codified as 7:26-15.14.
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

7:26-15.16 Severability

If any section, subsection, provision, clause or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this subchapter shall not be affected thereby.

As amended, R.1983 d.119, effective April 18, 1983.
See: 14 N.J.R. 1346(a), 15 N.J.R. 622(d).
Formerly codified as 7:26-15.15.

SUBCHAPTER 16. SOLID AND HAZARDOUS WASTE LICENSING AND REVOCATION— DISCLOSURE STATEMENTS AND INTEGRITY REVIEW

7:26-16.1 Scope and authority

(a) This subchapter 16 implements P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.), and the public policy declared therein to preclude from participation in the solid and hazardous waste industries persons with known criminal records, habits, or associations, and to exclude or remove from positions of authority or responsibility in those industries any person known to be so deficient in reliability, expertise or competence that his or her participation would create or enhance the danger of unsound, unfair or illegal practices, methods or activities in the business of those industries.

(b) This subchapter applies to any proceeding involving the issuance, approval, termination or revocation of any approved registration or equivalent authorization to operate a solid or hazardous waste business in New Jersey, including any temporary operating authorization, hazardous waste hauler license, or hazardous waste facility permit.

7:26-16.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Applicant” means any person seeking a license.

“Application” means the forms and accompanying documents filed in connection with the applicant’s request for a license.

“Broker” means any person, not registered with the Department, who for compensation (e.g., a commission or fee) arranges for the transportation or disposal of solid waste or hazardous waste, other than waste generated by that person.

“Business concern” means any corporation, association, firm, partnership, trust or other form of commercial organization.

“Disclosure statement” means a statement containing information about an applicant or licensee as set forth in N.J.A.C. 7:26-16.4.

“Exempt transporter” shall mean a transporter which is exempt from the requirement to file a disclosure statement, pursuant to N.J.A.C. 7:26-16.3(d).

“Key employee” means any person employed by an applicant or licensee in a supervisory capacity with respect to the solid or hazardous waste operations of the business concern in New Jersey or empowered to make discretionary decisions with respect to those operations, but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage or disposal of solid or hazardous waste.

“License” means the initial approval and first renewal of any registration statement or engineering design pursuant to N.J.S.A. 13:1E-1 et seq. and/or N.J.S.A. 13:1E-49 et seq. for the collection, transportation, treatment, storage or disposal of solid waste including hazardous waste in this State, except that “license” shall not include any registration statement or engineering design approved for any of the persons listed in N.J.A.C. 7:26-16.3(d). “License” includes any authorization equivalent to an approved registration, including any temporary operating authorization, hazardous waste transporter license, or hazardous waste facility permit.

“Licensee” shall be defined as set forth in N.J.S.A. 13:1E-127i.

“Permittee” shall be defined as set forth in N.J.S.A. 13:1E-127i.

Amended by R.1989 d.54, effective January 17, 1989.
See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Substituted “transporter” for “hauler” in the definition for “license”.
Amended by R.2000 d.75, effective February 22, 2000.
See: 31 N.J.R. 1429(a), 32 N.J.R. 693(a).

Inserted “Exempt transporter”; rewrote “Licensee”; and added “Permittee”.

7:26-16.3 Filing of disclosure statement

(a) Every applicant shall file a disclosure statement with the Department and the Attorney General at the time the application is filed, unless exempted under (d) below. Applicants for siting under the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq., shall file a disclosure statement at the time specified in N.J.A.C. 7:26-13A.6.

(b) Disclosure statements shall be filed by submitting an original and one conformed copy of all papers, including Personal History Disclosure Forms, to the Department at the following address:

Department of Environmental Protection
Division of Solid Waste Management
Bureau of Registration and Permits Administration
PO Box 414
Trenton, New Jersey 08625-0414

1. The Department will transmit copies to the Attorney General for purposes of the investigative report.
2. Additional conformed copies of disclosure statements, or any portions thereof, shall be supplied upon the request of the Department or the Attorney General.
3. Within 30 days of receipt of a disclosure statement from an applicant, the Department shall advise the applicant if the disclosure statement is incomplete on its face, and shall specify what additional information is required. Otherwise the Department shall transmit the disclosure statement to the Attorney General, and shall notify the applicant of the date the transmittal is made.

(c) Any person required to be listed in the disclosure statement, other than a nonsupervisory employee required to be listed under N.J.A.C. 7:26-16.4(a)9, shall be fingerprinted for identification and investigation purposes in accordance with procedures established by the Attorney General.

1. Completed fingerprint cards shall be supplied by the applicant with the filed disclosure statement. The applicant shall arrange for the taking of fingerprints.

2. Fingerprints shall be supplied on fingerprint cards specified for the purpose by the Attorney General and made available by the Department. Fingerprints must be taken and verified by an employee of a police agency authorized to take fingerprints. (Most local police departments will provide this service. Some charge a fee).

(d) Exemptions: The following persons are exempted from the requirement to submit a disclosure statement:

1. Any department, division, agency, commission or authority of the Federal government or any State, or any county, municipality or agency thereof;